51

SUPREME COURT OF THE UNITED STATES.

No. 1.

RHODE ISLAND

vs.

MASSACHUSETTS.

Papers put into the case of Rhode Island *vs.* Massachusetts, as evidence on the part of Rhode Island.

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J. & G. S. GIDEON, printers.

RHODE ISLAND

vs.

MASSACHUSETTS.

CLASS II.

No. 1.—Bounds of Plantation at the *Ponds*—1661.

DEDHAM.—21—8—1661.

At a general meeting of the town called by the selectmen, it is ordered that the bounds of the plantation intended at Wollomonuppouge shall be upon Stop river towards the east, beginning at Medfield bounds, and so all along as that river lies up stream, until it comes about half a mile above the falls in that river, near about where the path to that place at present lies, and from thence southward to Dorchester line; and the west bounds shall be at or about the end of five miles westward from one of the ponds in Wollomonuppouge, to be a line running parallel with the line at the east end of the plantation, to be laid out by the discretion and appointment of the men hereunder named—always is provided that it extend not to any lands but such as are at present our own; and the south bounds shall be Dorchester line, and the north bounds shall be Medfield bounds in part, and Charles river in part.

Capt. Elea Lusher, Lieut. Josh. Fisher, Ensi. Dan'l Fisher, Pet. Woodward, Tho. Fuller.

DEDHAM.—8—9—69.

Assembled Lieut. Fisher, Serg't Fuller, Serg't Avery, Elea Lusher.

Upon notice of Philip Sogamore that he is now at Wollomonuppouge, and offers a treaty about a sale of his right in the lands thereabout within our town bounds, not yet purchased; in consideration whereof, Timo. Dwight, Antho. Fisher, jun'r, Robert Ware, Richard Ellies, and John Thurston, or any four or three of them, are deputed and appointed to repair to Wollomonuppouge on the morrow, and treat with the said Philip, in order to a contract with him to clear his remaining rights within our town bounds, provided he makes his right appear, and upon contract secure our town from all other claims of all other Indians in the lands contracted for; upon which treatment, and what also this committee or the major part of them shall judge requisite, if they see just cause to make a contract with him, they have their power so to do, and make return of what they do herein, less or more, to the selectmen.

17—2—71.

Elea Lusher, Pet. Woodward, sen'r, and Tho. Fuller, being the major part of the committee deputed [21—8—61] to lay out the bounds of the plantation at Wollomonuppouge, according to the grant of the town; and again, upon information of some mistake in part of the east line, it being inconvenient to some of the lots. At a general meeting of the town, 6—11—67 being deputed upon view to rectify that mistake and settle the west bounds, did, with the consent of the rest of the committee, this day repair to the place in the east line aforesaid, together with Mr. Taylor, an artist procured by Lieut. Fisher, and at the place the east line was appointed to run, south from Stop river to Dorchester line, they order that line to be varied half a point from the south towards the east; and also order that a straight line shall be streched from the westernmost pond of those two in the situation of the lots, five miles due west, and at the end of those five miles, a line shall be drawn due south and north, the whole extent of the grant made to that plantation, and that to be and remain the west bound line of that plantation.

A true copy from the proprietors' records of the original town of Wrentham. Examined by

CORNELIUS KOLLOCK,
Acting Clerk of said Proprietors.

JANUARY 10, 169$\frac{2}{3}$.

At a general town meeting, legally called, it is agreed, that a corn mill be erected and set up at, and finished as a mill ought to be, at or about next michaelmas. Question. Whether at Jack's pasture or Stony brook? Answer, by vote, at Jack's pasture.

Granted to him that shall erect and finish said mill on that brook, a little above Jack's pasture, the benefit of the stream, so far as shall be needful in that place for a mill, and all *and all* the priviledges thereof, with so much land as shall be needful to build on, dam and flood, and timber, stone and earth for building.

To him, his heirs and assigns, so long as he or they shall maintain a sufficient corn mill there for the town's use; and also liberty to take up ten or twelve acres of land on divident account.

Voted in the affirmative.

A true copy, from the records of the proprietors of the original town of Wrentham. Examined by

CORNELIUS KOLLOCK,
Acting Clerk of said Proprietors.

15—11—71.

Proprietors tendered, for the encouragement of the building a corn water mill at Wollomonuppouge, as follows, viz: Upon condition that a sufficient corn water mill may be built and finished upon that stream, that comes out of the pond and run into Charles

river, in the nearest convenient place, to the lower end of the pond in Wollomonuppouge, and made in all respects fit for work, and do grind corn as such a mill ought to do, before the 1st day of May, which shall be anno 1673, and be so kept and attended that the inhabitants there be supplied with good meal, from time to time, of the corn they shall bring to mill.

Granted the priviledge of the whole of the stream of water before named, for the use of the mill, so long as such a mill as aforesaid shall be there maintained, and perform according as is above said; and that no part of that stream shall be denied him, so far as it shall be needfull to cause the mill to work in due manner.

Voted in the affirmative.

The foregoing is true copy from the records of the original proprietors of the town of Wrentham. Examined by

CORNELIUS KOLLOCK,
Acting Clerk of said Proprietors.

Grants of Medfield, 1659.

No. 2.—Lands granted by the town of Medfield to the inhabitants thereof, at a general meeting of the town, the 6th day of the 12th month, 1659.

To Timothy Dwight, one hundred and forty-six acres of land, as it lyeth on the new grant abutting on Charles river towards the south, and the highway north, bounded on the east with the land of Thomas Wight, and on the west with land of John Turner.

To Alexander Lovell, ninety-four acres of land, as it lyeth on the new grant abutting on Charles river towards the south, and on the highway north, bounded on the east with the land of John Turner, and of John Ellis, west.

To John Turner, one hundred and twenty acres of land, as lieth on the new grant abutting on Charles river on the south, and on the highway north, bounded on the east with the land of Timothy Dwight, and on the west with the land of Alexander Lovell.

To John Ellis, one hundred and twenty and six acres, as it lieth on the new grant abutting on Charles river towards the south, and on the highway north, bounded on the east with the land of Alexander Lovell, and with the land of James Allen west.

To James Allen, one hundred and two acres of land, as it lieth on the new grant, abutting on the highway on the north, and Charles river south, bounded on the east with the land of John Ellis, and on the west of Joseph Thurston.

To Joseph Thurston, fifteen acres of land, as it lieth on the new grant abutting on the highway on the north, and on Charles river south, and bounded on the east with the land of James Allen and the waste land on the west.

The above are true copies from the proprietors' book of records of land for Medfield and Medway, in my custody, as town clerk of the town of Medfield.

ISAAC FISKE, *Town Clerk.*

paster, by his meadow, in part east; and Cornelios Ffisher, ser., north; and Popilottick pond west; and Corneliaos Ffisher, ser., south, with allowance two pole wide cross it, to Corneliaos Ffisher, ser., land.

WRENTHAM.—6—1—$7\frac{6}{7}$.—34 Lott, John Ware.

Granted to John Ware, and his heirs forever, a parcell off meadow, containing 05 acres, 01 rood, $15\frac{1}{2}$ poles, as it lieth, in Mill Brook meadow, bounded by ye brook east; Eliza Meatcalfe, south; James Vaills, north; Samuel Sheers' part, common meadow in part, west.

WRENTHAM.—6—1—$7\frac{6}{7}$.—35 Lott, James Vaills.

Granted to James Vaills, and his heirs forever, on parcell of meadow, containing 01 acre, 02 roods, $4\frac{1}{4}$ poles. lieing on Mill Brook; bounded with the brook east; upland and swamp, west; Jchn Ware meadow, south; Cornelius Fisher's meadow, north.

WRENTHAM.—6—1—$7\frac{6}{7}$.—36 Lot, Cornelius Fisher.

Granted unto Cornelius Fisher, and his heirs forever, seavell percells off meadow, contayning 06 acres, 01 rood, $16\frac{1}{2}$ poles; one percell bounded with Mill Brook east; James Vaills, south; common land, north and west. One other p'cell, bounded with the *ye* brook west; common land in all other points. Another p'cell on Charles river, below the crotch, abutting on the river norward; Mr. Man, eastward; common land on all other points.

WRENTHAM.—6—1—$7\frac{6}{7}$.—37 Lott, Mr. Man.

Granted unto Mr. Samvell Man, and his heirs fforever, sevreall percells of meadow, containing 03 acres, 0 roods, 09 poles; lieing abutting upon Charles river north; being intercepted with upland; bounded on the west by Cornelius Ffisher meadow; Ensign Ffuller, east; common upland, south.

WRENTHAM.—9—4—85.—Lot 4.

	Acres.	Roods.	Poles.
Granted to Thomas Thurstun, and his heirs fforever, severall pcells of meadow land, all which containe the - - - - -	10	00	20
Viz: one pcell upon Mill Brook, - - -	2	0	0
As it lie, bounded with Dan Haws S. W.; ye brook, N. W.; and common upland on all other pts.			
More, one pcell swampy land lie for - - -	1	2	0
Lieing S. W. of his lowland; bounded with upland on all pts.			
More at ye N. eud of his lott, - - -	1	0	0
Abutting on ye brook W. and S. W.; and upon John Ffairbanks, N. E.; and upland on all other pts.			

More att Desii Meadow swamp lie for - -	1	3	32
Butting on John Ffairbanks N.; James Thop, E.; and ye swamp, W.; and common upland, S.			
More in a sweal, - - - -	0	2	0
Bounded with swamp, and ye head of a small brook, yt com to desir meadow, S.; and common upland all other pts.			
More att Stop river - - - -	3	0	28
Abutting upon the upland W.; and swampy land, S.; ye brook, E.; and Robert Ware, N.			

WRENTHAM.—9—4—85.—Lott 10.

Granted to John Hunting, and his heyrs forever, two pcells of meadow, containing - -	3	2	7
Viz: one pcell - - - - -	2	2	7
At Stop river, abutting upon Benjamin Rocket S.; and upon the heyrs of John May, N.; and upon the river, E.; and upland W.			
More at Mille Brook, - - - -	1	0	0
Abutting upon the brook E; and upon his own meadow in pt S. and N.; and upland on all other pts.			

WRENTHAM.—9—4—85.—Lot 26.

Granted to Nathaniel Ware, and his heyrs forever, meadow land, containing - - -	8	0	16
One pcell lieing upon the Mille Brook, below the saw-mill, abutting upon John Whiting S. E.; and upon the brooke, westward; and upon upland, E. ward, all along down the highway, going over next Daniell Haws' meadow -	4	1	20
Another pcell over the brook, against sd. Meadow, - - - - -	3	2	36
Bounded by the highway next Daniell Haws' meadow N.; and by the upland, westward; and Cornll. Ffisher, neare the spring coming of the hills, S. ward; and upon the Mille Brooke E. ward.			

WRENTHAM, *March* 28, 1698.

Granted to Nathaniel Ware, and to his heyrs and assigns forever, forty-four acors—44 acres, 0 roods, 0 poles—of land, on the great devident account, att the Mille Brook, south of Benjamin Hall, and is bounded by common land; the sd. brook running throw part of sd. land.

WRENTHAM, *March* 28, 1698.

	Acres.	Roods.	Poles.
Granted to Cornelius Ffisher, and his heirs and assigns forever, a percell of land on yt great devident account, containing - - -	50	0	0
Layd out together with his timber land, being	12	0	0
And also, thirteen acres and three roods, - of Nathaniell Heaton's timber land; bounded by, and abutting upon Charles river, N. and west, in part; and Pobetuock pond, in part; and Jack's pastur brook, E.; and on Daniell Ffarrington, S.: and mor on the same devidant account, att Pine Plain meadow; 4 acres bounded by his meadow E., and common on all other parts; and 2 acres, more or less, in ye neck there undivided, with Mickell Wilson and Nathaniel Dunham.	13	3	0

WRENTHAM.—9—4—85.—Lott 32.

Granted to Daniell Hawes, and his heirs forever, three pcells of meadow, as they ffor, -	5	0	10
One pcell by Popyluttock pond, E. - -	2	0	10
Abutting upon Daniell Ffarington S.; and upon the pond, E.; and upon upland, W., in yt; and Charles river in yt.; and upon Sargt. Ffisher, N.			
More, one pcell, - - - -	2	0	0
Upon Mille Brooke; abutting upon common upland S. W. and S. E.; and upon Thomas Thurston, N. E.; and ye brook, N. W.			
More, - - - - - -	1	0	0
Abutting upon the Mille Brooke W.; against his own meadow; and upon Robert Ware, N.; and common upland on all other pts.			

WRENTHAM.—9—4—85.

Granted to Samuel Ffisher and his heyrs, ffor severall pcells of meadow, all which lyeth ffor	5	0	10
One pcell upland meadow - - -	2	1	0
Abutting upon Charles river, N.; and upon Samuel Ffisher, jun., in pt; and common upland in pt W.; and upland, S. and E.			
More down strame, a *a* round pcell; bounded with the river N., and upland on all other pts.			
More down strame, in a neach of the river, -	1	3	10
Bounded with the river N. and E., and with Daniell Hawes, S. ward.			

	Acres.	Roods.	Poles.
More, one pcell att Stony Brook, - -	1	0	6

Bounded with the brook E.; against his own meadow; and swamp on all other pts.

Lott 32. WRENTHAM, *March* 28, 1709.

Granted to Ephraim Bond, and his heirs and assigns forever, on the Widow Pond's rights, and to make up the complement in the five acre devident, two acrs of land neer the place called the hoop-pools, between the two ways there; beginning at a marked white oake, and so west and by north 20 poole, to a stake; south and by west 16 poole; thence to a heap of stones, east and by north, 20 poole; and thence 16 poole, to the first marked white oak—2 acres, 0 roods, 0 pools.

Lott 61. *October* 1, 1716.

Granted to Ephraim Pond, and his heirs and assigns forever, on the four acre devident, eight acres of land, at a place called the hoop-pools; bounded by his own land west, and common land on all other parts, with allowance for a way cross said land—8 acres, 0 roods, 0 pools.

WRENTHAM, *Oct.* 1, 1716.

Granted to Jonathan Metcalf, and his heirs and assigns forever, ten acres of land, at Charles river—10 acrs, 0 rood, 0 poles—viz: two acrs at his land, that he had of Edward Gray, bounded by his own land west, and common land on all other parts; and eight acrs at the mine brook; bounded by his own land northeast, and common land on all other parts; four acrs of this above said land is of the five acre devident, viz: two acrs bought of Edward Gray and two acrs bought of John Maccane.

A. D. 1829, *May 6th.*

At a legal meeting of the proprietors of the original township of Wrentham, holden at the meeting house in the first parish in said Wrentham, on Wednesday, the sixth day of May, in the year of our Lord one thousand eight hundred and twenty-nine, at one o'clock in the afternoon, agreeably to the foregoing warrant, having been called and warned according to the directions of the proprietors, for the purpose in said warrant stated.

1st. Chose Lewis Fisher, esquire, moderator, to order the meeting.

2d. Cornelius Kollock, clerk.

Sworn by the moderator in the meeting to act until another is chosen and sworn in his room.

I do hereby certify that the books of said proprietors have been in my custody from the 6th day of May, A. D. 1829, to this time, and the foregoing six pages are true copies from said records.

Attest: CORNELIUS KOLLOCK, *Acting Clerk.*

An act incorporating the town of Wrentham, 1673.

No. 5. In answer to the petition of the inhabitants of Wollonopaug, the court judgeth it meet to give the petitioners all due encouragement conduceable to their settlement, together with the present ministry according to their desires, and to that end do hereby grant them all the liberties and privileges of a township—their extent to be as by agreement between Dedham and them, and that it be called Wrentham, and for the better carrying an end of their prudential affairs, together with what else may occur tending to advance a plantation there, do hereby appoint and empower Capt. Hopestill Foster, Mr. William Parks, and Capt. Daniel Fisher, to be a committee to join with any such two of them, as shall from time to time be chosen, and what they or the major part of them shall do in any the respects above mentioned to be valid, and their power to continue till the court take further order therein; and further, do also grant, that they shall be free from all country rates for four years next ensuing.

The preceding is a true copy from the general court records, under date of Oct. 17, 1673.

Attest: JOHN P. BIGELOW,
Secretary of the Commonwealth of Massachusetts.

BOSTON, *October* 28, 1842.

Deed—John Ware to Peter Adams, 40 acres bounded west on Jack's Pasture Brooke, 1708.

No. 6.—*Ware to Adams.*

Know all men by these presents, that I, John Ware, sen., in the town of Wrentham, in the county of Suffolk, in her majestie's province of the Massachusetts bay, in New England, carpenter, for and in consideration of six and thirty pounds and tenn shillings in money by me in hand received of Peter Adams, jun., in the town of Medfield, in said county of Suffolk, in New England, husbandman, in full satisfaction have given and granted, aliened, sold, and confirmed, and do by these presents, freely and fully, and absolutey give, and grant, aliene, convey, and confirm unto him, said Peter Adams, jun., his heirs and assigns forever, a certain tract of land and meadow land, containing forty-four acres, be it more or less, as it is situate, lying, and being in said town of Wrentham, as it is bounded by and abutting upon a brook falling out of Toylsend meadow, in Jacks pasture brook, as also against Eliazer Fisher, N., and on said Jack's pasture brook, W., and on the heirs of Thomas Thurston, in part, and common land in part, S., and on the common land, E., to have and to hold the said granted and bargained premises, with all the appurtenances, priviledges, and commoditys to the same belonging, or in any way appertaining, to him the said Peter Adams, jun., his heirs and assigns forever, to his and their proper use, benefit, and behalf forever; and I, said John Ware, sen.,

do covenant and promise, that before the ensealing hereof, I am the true, lawful, and sole owner of the above bargained premises, as a good estate of mine in fee simple, and that said Adams *Adams*, his heirs and assigns, shall, and may from time to time, and at all times hereafter, by virtue of these presents lawfully possess, and have and hold, use, and occupy the said demised-premises; and do covenant further, covenant with said Peter Adams, that the above demised and bargained premises is clear, acquitt off, and discharged from all, and all manner of debts, gifts, mortgages, and all other legal hindrance, or molestation, forever, and more two common rights in all the common and undevided lands, in all the town bounds of said Wrentham; and in confirmation of the above demise and bargained premises, all and in singular, I have set to my hand and seal, dated this twenty-third day of August, in the seventh year of her majestie's reign, Anna, Queen of Greet Britain, annoq't. domini 1708.

JOHN WARE, Sen., and a seal.

Memo.—The word appertaining, interlined between the fourteenth and the fifteenth lines, was before the sealing.

Signed, sealed, and delivered in presence of,

EPHRAIM CHAPIN,
RICHARD MACY,
JOSIAH CHAPIN.

SUFFOLK, *ss:*

AUGUST 25*th*, 1708.

John Ware, sen'r., personally appeared before me, the subscriber, one of her majesties justices of the peace for said county, and acknowledged this instrument to be his own free and voluntary act and deed.

JOSIAH CHAPIN.

APRIL 8*th*, 1718.

Received, and accordingly entered and examined.

Per JOHN BALLANTINE, *Reg'r.*

A true copy from the records of deeds for the county of Suffolk, lib. 32, fol. 213.

Attest: HENRY ALLINE, *Reg.*

Deed—Farrington to Kingsbury, 28th November, 1,711—108 acres on both sides of Jack's Pasture brook.

No. 7—*Farrington to Kingsbury.*

Know all men by these presents, that I, Daniel Farrington, of the town of Wrentham, in the county of Suffolk, in the province of the Massachusetts bay, in New England, husbandman, do alienate and sell, for and in consideration of threescore and ten pounds

current money of New England, in hand received, or secured to be paid, do give, grant, bargain, sell, and confirm unto Daniel Kingsbury, of the town of Dedham, in the county and province aforesaid, husbandman, and to his heirs and assigns forever, one hundred and eight acres, three rood and twenty-two pole of land, being part upland, part meadow, and part swamping land, be it more or less, as it is situated, lying, and being in Wrentham, at Jack's pasture, and is bounded by Eleazer Fisher, south, Papituttick pond west, and John Boadwine's, north, and the way to the New Nutt, so called, east; the land above named lyeth on both sides of Jack's Pasture brook, and there is allowance of two pole wide on the west side of the brook for to go to John Boadwine land; and I, the above said Daniel Farrington, do alienate and sell to the above said Daniel Kingsbury, eight acres and a half, be it more or less, of meadow and swamp land at Jack's pasture, as it is bounded by the heirs of Thomas Thurston, northwest, and upon a Grindle, southeast, and upon upland, southwest, and upon Nathaniel Heetn, in part, and the heirs of Samuel Whitney, southeast, in part; all which parcells of land, both upland and meadow, and swampy land, as they are abutted and bounded as aforesaid, I, the above said Daniel Farrington, do hereby avouch myself to have free, full, and legall power, the premises to make sale of at the day of the date hereof, and do hereby further warrant all the premises, together with all the profits and priviledges that are in, upon, or any way properly belong to any, or all the premises, to be, abide and remain as a good estate of sound inheritance in fee simple; to have and to hold to him, the said Daniel Kingsberry, and to his heirs, executors, administrators, and assigns, in peaceable possession forever, free, acquit, and discharge, of and from all manner of gifts, grants, sales, extents, judgments, mortgages, leases, dowrys, and all other legal molestations, interruptions, and incumbrances whatsoever, from, by, or under me, the said Daniel Farrington, or any of my heirs, executors, or administrators, or any other person or persons whatsover, and I do herewith and hereby give seizin and lawful possession of all the above demised premises, and ingage to do any further act or acts, thing or things, that do any way tend to the more full confirmation of all the above demised premises, when I am reasonably requested thereunto. In confirmation of all the above demised premises, I, the above said Daniel Farrington, have set to my hand, and fixed my seal, the twenty-third day of November, in the year one thousand seven hundred and eleven, in the tenth year of the reign of our sovereign lady Anna, Queen of Great Britain, &c.

DANIEL FARRINGTON, and a seal.
ABIGAIL FARRINGTON, her X mark.

Signed, sealed, and delivered in presence of,
RICHARD PUFF,
For SAMUEL FISHER,
JONATHAN WIGHT.

SUFFOLK, *ss* :

DORCHESTER, *March* 31*st*, 1718.

The within named Daniel Farrington, personally appeared, and acknowledged the within written instrument to be his free act and deed.

Before me, NATH. HUBBARD, *Pacis Just.*

May 21st, 1718.—Received, and accordingly entered and examined.

Per JOHN BALLANTINE, *Reg'r.*

A true copy from the records of deeds for the county of Suffolk, lib. 32, fol. 259.

Attest: HENRY ALLINE, *Reg.*

Deed—Cornelius Fisher to John Barbour, 28 acres bounded east on *Jack's Pasture brook*, Nov. 1, 1716.

No. 8.—*Fisher to Barber.*

To all christian people to whom these presents shall come, Cornelius Fisher, of the town of Wrentham, in the county of Suffolk, within his majesty's province of the Massachusetts bay, in New England, husbandman, sendeth, greeting:

Know ye, that I, the said Cornelius Fisher, for and in consideration of fifty pounds of current money of New England, in hand received, and well and truly paid before the ensealing and delivery of these presents, by John Barbur, of the town of Medfield, in the county of Suffolk, and province aforesaid, in New England, husbandman, the receipt whereof, to full content and satisfaction, I do hereby acknowledge, and thereof, and every part thereof, do acquit, exonerate, and discharge the said John Barbur, his heirs, executors, and administrators, and every of them, forever; by these presents have given, granted, bargained, sold, alienated, conveyed, and confirmed; and by these presents do fully, freely, clearly, and absolutely give, grant, bargain, sell, alienate, make over and unto the said John Barbur, his heirs and assigns, forever, twenty-eight acres and one rod of land, be it more or less, part upland and part meadow land, as it is situated, lying, and being in Wrentham, at Jack's pasture, on the west side of the brook, as it is bounded by and abutting upon the brook, in part, and the land of Eleazer Fisher, in part, east, and on the land of Eleazer Fisher, in part, and the land of David Kingsbery, in part, north, and on Jack's pasture pond, in part, and common, in part, and the land of John Ware, in part, south, and common land, west; all which twenty-eight acres, and one rod, be it more or less, part upland and part meadow land, as it is butted and bounded, as aforesaid, or however reputed to be bounded together, with all and singular the fences, improvement, profits, priviledges, right, libertys, wood and timber, grass and feeding, hereditaments, immunities, commoditys, and

appurtenances, whatsoever, to the said land and premises belonging, or in any wise appertaining thereunto; my whole right, title, interest, use, possession, property, claim, and demand, whatsover, of, in, or to the same, or every part thereof; to have and to hold the said lands, and all thereunto belonging, butted, bounded, and containing, as aforesaid, with all other the above granted and bargained premises, with the appurtenances, unto the said John Barbur, his heirs and assigns, forever, to his and their own sole and proper use, benefit, and behoof, forevermore; and I, the said Cornelius Fisher, for me, myself, my heirs, executors, and administrators, do hereby covenant, promise, and agree to and with the said John Barbur, his heirs and assigns, in manner and form following, viz't: that, at the time of the unsealing and delivery of these presents, I, the said Cornelius Fisher, am the true, sole, and proper owner of all the fore-bargained premises, and stand lawfully seized thereof, in my own proper right, of a good, sure, and indefeazible estate of inheritance in fee simple, having in myself full power, good right, and lawfull authority, to grant, sell, convey, and assure all the above granted and bargained premises, with the appurtenances, unto the said John Barbur, his heirs and assigns, in manner and form, as aforesaid; and that the said John Barbur, his heirs and assigns, shall and may, from henceforth, hold, use, ocupy, possess, and enjoy, all the above granted and bargained premises, with the appurtenances, and clear and clearly acquit, exonerate, and discharge, of and from all and all manner of former and other guifts, grants, bargains, sales, leases, mortgages, joyntures, dowry, judgments, extents, troubles, charges, and incumbrances, whatsoever; and further, I, the said Cornelius Fisher, do hereby covenant, promise, bind, and oblige myself, my heirs, executors, and administrators, from henceforth and forever, to warrant and defend all the above granted and bargained premises, with the appurtenances unto the said John Barber, his heirs and assigns, against the lawful claims and demands of all and every person and persons whatsoever, and at any time or times hereafter, to give and pass such farther and ample assurance and confirmation of all the premises unto the said John Barbur, his heirs and assigns, as by his or their council, learned in the law, shall be reasonably devised, advised, or required. In confirmation of all the above demised premises, I, the above said Cornelius Fisher, have hereunto sett my hand, and fixed my seal the first day of November, in the year of our Lord one thousand seven hundred and sixteen, in the third year of the reign of our sovereign lord, George, King of Great Britain, &c.

CORNELIUS FFISHER, Senr., and a seal.

Signed, sealed, and delivered in presence of us,
EBEN. FISHER,
PELATIAH MAN,
JONATHAN WIGHT.

SUFFOLK, *ss:*

BOSTON, *25th March*, 1718.

Cornelius Fisher personally appeared before me, the subscriber, one of his majestie's justices of the peace, in said county, and did acknowledge this above written instrument to be his free act and deed.

SAMUEL LYNDE.

Boston, March 25th, 1718. Received, and accordingly entered and examined.

Pr. JOHN BALLANTINE, *Reg'r.*

A true copy from the records of deeds for the county of Suffolk. Lib. 32, fol. 196.

Attest: HENRY ALLINE, *Reg.*

No. 9.—To be filed, estab'ling the *names* of the rivers in early days.

Class 3.—*Tomson to Corbet.*

A.—Received, Jan. 19, 1732.

To all people to whom these presents shall come, I, John Tompson, of Bellingham, in the county of Suffolk, in the province of the Massachusetts bay, in New England, weaver, do send, greeting:

Know ye, that for and in consideration of the sum of one hundred and fifty pounds, to me in hand well and truly paid, before the ensealing hereof, by John Corbet, of Bellingham, aforesaid, yeoman, the receipt whereof to full content and sattisfaction, have given, granted, bargained, sould, aliened, conveyed, and confirmed, and by these presents do fully, freely, and absolutely give, grant, bargain, sell, alien, convey, and confirm unto him, the sd. John Corbet, his heirs and assigns forever, a certain piece or parcel of land in the township of Bellingham, aforesaid, scituate on the northerly side of Charles river, where the sawmill on sd. river is now erected, containing, by estemation, eighty acres, be the same more or less, as the same is bounded: southerly, on the abovesd. river; easterly, on Mondon town line; northerly, partly on the land of Joseph Tompson, partly on the grantor's land, sd. division line to run due east and west from a pine stump in sd. Joseph Tompson's fence; westerly, partly on the land of Benjamin Albee, jr., partly on a highway to a stake, being the southeast corner of Jonathan Thayer's land, thence turning westerly partly on said Thayer's land, partly on the grantee's own land, and partly on Daniel Corbet's land, home to the said river; there being a four rod highway running cross said land; to have and to hold all the above granted premises, with all the appurtanances, preveledges, and commodities to the same belonging, or in any kind appertaining unto him, the said John Corbet, his heirs and assigns forever, to his and their only proper use, ben-

efit, and behoofe forever; and I, the said John Thompson, for me, my heirs, executors, and administrators, do covenant, promise, and grant to and with him, the said John Corbet, his heirs and assigns, that, before the ensealing hereof, I am the true, sole, and lawful owner of all the above granted premises, and am lawfully siezed and possessed thereof, in my own proper right, of a good, sure, and perfect estate of inheritance in fee simple, having in myself full power, good right, and lawful authority to grant, sell, and convey the same in maner and form aforesaid, and that the said John Corbet, his heirs and assigns, shall and may, by force and vertue of these presents, henceforth forever hereafter lawfully, peacable and quietly, have, hold, use, occupie, possess, and enjoy the said demissed premisses free and clear, and clearly acquited, exonerated, and fully discharged of and from all all and all manner of other and former gifts, grants, bargains, sales, leases, mortgages, joyntures, dowers, wills, intails, and encumbrances whatsoever.

Furthermore, I, the said John Thompson, verte for myself, my heirs, executors, administrators, do covenant and engage the aforesaid demissed premisses unto him, the said John Corbet, his heirs, and *and* assigns, against all the lawful claimes or demands of any person or persons whatsoever, forever hereafter, to warrant, secure, and defend; and Hannah, the wife of me, the said John Thompson, doth hereby freely, willing resigne and surrender up unto the said John Corbet, his heirs *his heirs* and assigns forever, all her right of dower and power of thirds in and unto the premisses.

In witness whereof the said John Thompson and Hannah his wife have hereunto set their hands and seals, the fifteenth day of June, anno domini 1730.

JOHN THOMPSON. [SEAL.]

her
HANNAH ⋉ THOMPSON. [SEAL.]
mark.

Signed, sealed, and delivered in presence of us:

her
MEHETABELL x CORBETT.
mark.

his
BENJAMIN x ROCKWOOD.
mark.

her
GRACE x THAYER.
mark.

June ye 15, 1730.

SUFFOLK, *ss:*

John Thompson and Hannah Thompson, the above named grantors, personally appearing, acknowledged the above written instrument to be there free and voluntary act and deed, before me,

DANIEL TAFT, *Justice of Peace.*

BOSTON, *January* 19, 1732.

Received and recorded with the records of deeds for the county of Suffolk, libo. 47, folio 874 *a.*

Pr. JOHN BALLENTINE, *Register.*

B.—A copy of the perambulation with Billingham in the year 1772.

A copy of answer.

WRENTHAM, *April ye* 18*th*, 1722.

Whereas the selectmen, appointed Wednesday the 18th of April current, to meet at the dwelling-house of Jonathan Wright, in Wrentham, at 9 of ye clock, in the morning, to perambulate the line, and renew the bound marks of the line betwixt Wrentham and Bellingham, and having notified the selectmen of Bellingham to meet at time and place appointed for the work aforesaid, to joyn with the selectmen of Wrentham in perambulating and renewing the bound marks of said line, the selectmen of Wrentham, Thomas Bacon, Lieut. Eleazer Ware, Ralph Day, Michael Ware and Jonathan Ware, met with the selectmen of Bellingham, viz: Mr. John Corbet, Mr. William Howard and Mr. John Marsh, at time and place appointed, and did joyn with them in perambulating the line and renewing the bound marks of ye line between Wrentham and Bellingham, begining at a black oak, anciently marked, near the north end of said line, near Charles river, standing on the edg of the hill next ye said river; said tree marked on four sides and set on the letter W on ye east side, and the letter B on the west side: thence to a white oak standing near swampy land, marked on four sides and set on the letter W on ye east side; then to a black oak marked on four sides and set on ye letter W on the east side; thence to a black oak marked on four sides and set on the letter W on the east side; then to a black oak marked on four sides and set on the letter W on the east side, next to a white oak marked on four sides and set on the letter W on ye east side; then to a crotched red oak tree standing on the plain westerly from John Partridge's house, near the Pine swamp, marked on four sides and set on the letter W on the east side; then to a large white oak tree near a pine swamp on the southerly side, and anciently marked on four sides, and the letters W R on the east side, anciently set on; and renewed said bound mark by setting on the letter W on ye east side; then to a black oak tree with a dead top, standing on a high rocky plain, marked on four sides and set on the letter W on the east side; then, night coming on, could proceed no farther on said line in renewing the bound marks thereof. The selectmen of Wrentham notified the selectmen of Bellingham to meet them at the dwelling-house of Isaac Thayers, in Bellingham near said line, on Wednesday, the twenty-fifth of April current, at nine of the clock, in the morning, to joyn with them in finishing the peram-

bulating the line and renewing the boundmarks of the line between Wrentham and Bellingham.

WRENTHAM, *April ye* 25, 1722.

The selectmen, Thomas Bacon, Lieut. Eleazer Ware, Ralph Day, Michael Ware and Jonathan Ware, met the selectmen of Bellingham, viz: Capt. John Darling, Mr. Nathaniel Jason and Mr. John Corbet, according to appointment, to joyn with them in finishing the perambulating the line and renewing the bound marks of the line betwixt Wrentham and Bellingham, and began at the stump of a pine tree, burnt down, standing a little westerly from a grassey pond, on a pine plain, and renewed the marks thereof; and then to a gray oak, marked, standing near a gutter or swampy place, and renewed the marks thereof; thence to a white oak, fallen down, and laid several stones in the stump of it; then to an elm, standing in a small brook, marked; thence to a large white oak tree standing on the southwest side of the hill, called Balld hill, on the east side of a narrow gutter of swampy land—said tree anciently marked on four sides, and set on the letter W on the east side, and the letter B on the west side; then to a dead read oak tree, marked on four sides, standing on the north side of Bungee brook or one branch of Peter's river; then to a large white oak tree by the way side, standing near the north end of Iron rock meadow, anciently marked with several letters set on it; then to large white oak tree, being the last tree we renewed on said line, standing on the side of a hill or rising ground, by estimation about forty pole from the line between Wrentham and Attleborough, and renewed the marks, and set on the letter W on the east side, and the letter B on the west side.

A true copy, taken from the Wrentham town book Oct. ye 11, 1744.

Attest: FRANCIS NICHOLSON, *Town Clerk.*

I certify that the above is a true copy from the records of Wrentham.

DAVID L. COWELL, *S. Clerk.*

WRENTHAM, *May* 24, 1843.

C.—Articles about a sawmill on Second Bridge river.

To all christian people, John Tompson, sen'r, Sylvanus Holbrook, Ebenezer Thayre, John Tompson, jun'r, John Corbet and Samuel Rich, send greeting: Know ye, that we, the persons above named, have mutually agreed and determined to build and erect a sawmill, and a damme, serving thereunto, upon the river commonly called Second Bridge river; the one side of the river abutting on Menden land, the other on lands belonging to the township of Dedham, in the county of Suffolk, and province of the Massachusetts, in New England, and little below a field in the possession of

James Alby, jun'r. And for the due stating and determining the several shares and interests to each of us said persons belonging, and the severall things necessary to be concluded about the fitting said mill and damme for improvement, and about the way and manner of improving sd. mill when fitted for service, we have agreed and concluded the subsequent articles: That is to say, imp'e, the said John Tompson, sen'r, and Sylvanus Holbrook, doe oblige themselves, their heyrs, executors and administrators, to carry on each of them one-fourth or quarter part of said mill and damme, and whatever shall be necessary to render the said mill serviceable, and the said Ebenezer Thayre and John Thompson, jun'r, doe hereby oblige themselves, jointly and severally, to carry on in like manner another fourth or quarter part; and the said John Corbett and Samuel Rich doe oblige themselves, their heyrs, executors and administrators, jointly and severally, to carry on the other fourth or quarter part, in such manner and forme as is above, to putting said mill into a capacity for service.

II. We, the above named, doe determine and agree, and it is hereby by us agreed and determined, that after said mill shall be erected and fitted for service, by and at the charge of the above named, according to their stated and declared interests, which shall be effected by the time, that the major part of the proprietors above expressed shall determine, at their meeting, or meetings, which all concerned shall have notice off; that then said mill shall be improved in such a way or manner as shall be agreed on by the major part of the proprietors above named, convened together as above agreed, altho. not so as to hinder any dissenting proprietor from tending and improving his part, in due proportion with the rest, according to his stated interest.

III. That all reparations of said mill and damme, and all parts and utensils or impliments, for the service and due management of said mill, shall be carried on by the persons above named, their heyrs, executors, administrators, or order, according to their above declared stated interests; and if any proprietor shall decline to assist in such repairs, being duly noticed, the other proprietors shall have the liberty of improving his or their part, so declining, until they have received what has been trully disbursed upon his or their account.

IV. It is alike agreed, that the said mill shall be so long continued in the plan as above, as the major part of the proprietors above named, shall determine, voting and acting according to their stated interests.

V. It is further agreed, that no person above named, whatever his stated interest is, shall make sale of his said interest to any person until the other proprietors have had the refusal thereof, nor to any person then, but who shall be to the acceptance of the major part of the proprietors, acting according to their stated interest.

VI. And whereas it is concluded that the damme to be built across the said Second Bridge river, for the use of the sawmill above mentioned, will flow certain parcells of meadow belonging to the said Ebenezer *Ebenezer* Thayre and James Alby, above named, who have agreed and freely given liberty, unto the afore named proprietors, to flood said meadows from the first of September to the first day of May, annually, so long as the proprietors shall agree to maintain and uphold a sawmill in the place aforesaid, we, the above named, doe oblige ourselves, heyrs, executors, administrators, and that jointly and severally, that we will shut down the gates on the first of September, and keep them drawn up from the first of May, annually, until the first day of ensuing September, annually.

VII. It is likewise agreed and determined, by the aforenamed proprietors, that whosoever of them shall break any of the aforenamed articles, unto which no penalty is annexed, shall pay, or cause to be paid, unto the other proprietors, who stand by them, ten pounds, if he enjoy a quarter part, and proportionally if an eighth.

That all and singular the articles above mentioned, and severally and singular clauses in them mentioned and contained, are ratified, determined and established, by each and singular person, and all persons above named as proprietors of said saw mill, according to their stated interests, appears by their hands and seals to this instrument subjoined, and affixed this fifth day of March, in the year of our Lord one thousand seven hundred and ten, eleven, and in the ninth year of the reign of our sovereign lady Anne, of Great Britain, France, and Ireland, queen, &c.

Memorandum.—The words (of them) above were interlined berfore signing and sealing, as were also the words (above mentioned.)

JOHN TOMPSON. [SEAL.]
SILVANUS HOLBOOK. [SEAL.]
his
EBENEZER ⋈ THAYRE. [SEAL.]
mark.
JOHN CORBET. [SEAL.]
SAMUEL RICH. [SEAL.]
JOHN THOMPSON, Jun'r. [SEAL.]

Signed and sealed in presence of us,
GRINDAL RAWSON,
EDMUND RAWSON.

Copies of grants of land in Medfield.—9 | 6.—D.

Lands granted by the town of Medfield, to the inhabitants thereof, at a general meeting of the town, this 6th day of the 12th month, 1659:

To Timothy Dwight, one hundred and forty-six acres of land, as it lyeth on the new grant abutting on Charles river, towards the south, and the highway north, bounded on the east with the land of Thomas Wight, and on the west with the land of John Turner.

To Alexander Lovell, ninety-four acres of land, as it lyeth on the new grant, abutting on Charles river towards the south, and on the highway north, bounded on the east with the land of John Turner, and of John Ellis west.

To John Turner, one hundred and twenty acres of land, as it lyeth on the new grant, abutting on Charles River on the south, and on the highway north, bounded on the east with the land of Timothy Dwight, and on the west with the land of Alexander Lovell.

To John Ellis, one hundred and twenty-six acres of land, as it lyeth on the new grant, abutting on Charles river towards the south, and on the highway north, bounded on the east with the land of Alexander Lovell, and with the land of James Allen west.

To James Allen, one hundred and two acres of land, as it lyeth on the new grant, abutting on the highway on the north, and Charles river south, bounded on the east with the land of John Ellis, and on the west of Joseph Thurston.

To Joseph Thurston, fifteen acres of land, as it lyeth on the new grant, abutting on the highway on the north, and on Charles river south, and bounded on the east with the land of James Allen, and the waste lands on the west.

The above are true copies from the proprietors' book of records of land for Medfield and Medway. Examined by me.

SIMON PLIMPTON, *Proprietors' Clerk.*

Simon Plimpton, of Medfield, in the county of Suffolk, in the Province of the Massachusetts Bay, in New England, on his oath deposeth, that he is now, and for two years last past hath been, clerk to the proprietors of the lands lying in Medfield and Medway, and that the ancient books of record concerning the said lands now are, and during all the time aforesaid have been, in his care and keeping, as being in the office aforesaid, and under oath, and that the within copies, by him attested as clerk as aforesaid, are true copies from the said books of records.

SIMON PLIMPTON.

SUFFOLK, *ss:*

MEDFIELD, *April* 23, 1752.

Then personally appeared, the above named Simon Plimpton, and made solemn oath, that the above declaration, by him made and subscribed, is true.

Coramme HENRY ADAMS, *Justice of Peace.*

A true copy, examined by

THO. WARD, *Sec'y.*

E.—The grant of Ebenezer Thayre and James Alby, junr., to John Thompson & Partners.

To all persons that are or may be concerned, Ebenezer Thayre, of Dedham, in the county of Suffolk, and Province of the Massachusetts, and James Alby, of Mendon, in the county aforesaid, send

greeting: Know ye, that John Thompson, senr., Sylvanius Holbrook, Samuel Rich, John Corbet, John Tompson, junr., all of said Mendon, and Ebenezer Thayre aforesaid, of Dedham, have, by articles of agreement had, made and concluded upon by them, by an instrument bearing date with these presents, determined and obliged themselves, heyrs, executors, and administrators, to build and erect a saw mill and damme, and all necessaryes for the rendering said saw mill serviceable, on the river commonly called Second Bridge river, abutting on the one side on said Mendon, on the other on said Dedham, a little below the field belonging to said James Alby, junr., above named; and know ye, that whereas the damming said river will flood certain tracts or pieces of meadow belonging to us, the said Thayre and Alby; now know yee, that we, the said Thayre and Alby, doe for ourselves, heyrs, executors, and administrators, grant and allow free and full liberty to the above named proprietors of said saw mill to flood said meadows, so long as they shall see cause to keep up said mill, as they have cautioned in their articles of agreement bearing date with these presents; always provided, that they shall not shutt down their gates to raise a pond before the first of September annually, and draw up and keep their flood gates drawn up, from the first day of May annually, until the ensuing first of September annually.

And in token of our free and voluntary agreeing and consenting unto the flooding said pieces of meadow, to us belonging, in manner and forme as above declared, we have sett to and affixed our hands and seals, this fifth day of March, one thousand seven hundred and ten, eleven, and in the ninth year of the reign of our sovereign Lady Anne, of Great Britain, France, and Ireland, Queen, &c.

(Signum) EBENEZER ⋈ THAYRE, [L. S.]
JAMES ALLBOE. [L. S.]

Signed and sealed in presence of us,
GRINDAL RAWSON,
JACOB ALDRICH.

F.—Petition and plan and grant of Bellingham Township, 1719.

To his excellency Samuel Shute, esq., captain general and governor-in-chief in and over his majesty's province of the Massachusetts bay, in New England, and to the honorable council and house of representatives, in general court convened at Boston.

The petition of the inhabitants of a tract of land belonging to Dedham, westward of Wrentham, and the inhabitants of a considerable farm adjoyning theretoe, and the inhabitants of a small corner of the township of Mendon, adjacent thereto, (to the number of four families,) humbly showeth: That whereas ye above s'd inhabitants are situated at a remote distance from the respective towns whereto they respectively belong, (viz:) the inhabitants of the town of Dedham, to the number of three and twenty families, are about twenty miles distance from the town where they belong and do

duty, and being very remote from the publick worship of God; and the inhabitants of the above said farm, to the number of 13 families, being six or seven miles distance from the place of publick worship; and the inhabitants of Mendon aforesaid being about four miles distance; and considering our remoteness and the inconveniences we labour under by reason of the same, and that the uniting and incorporating the above said tracts together, and making of them a town, may put us into a way in some convenient time to obtaine the settlement of the Ghospell among us, &c., (the uniting of the above said tracts of land together will make a town of about seven miles long and three miles and halfe wide.) Further considering that the inhabitants of the above said tract of Dedham land and the farms are already incorporated into a training company, and that they have little or no benefit of town priviledges, or by having benefit of the schooles, we do respectively pay to the *the* whole number of families belonging to the above tract, being forty, and land enough already laid out to accommodate 20 or 30 more, the inhabitants of Dedham, land being voated of by the town for that end.

Our prayer therefore is, that your honors would graciously please to consider our difficult circumstances, and grant us our petition, which is, that the above mentioned tracts of land (as by one plate heretoe affixed and described) may be incorporated together and made a town, and invested with town priviledges, that so we may be enabled in convenient time to obtaine the ghospell and publick worship of God settled, and our inconveniences by reason of our remoteness, be removed; granting us such time of dispence from publick taxes as in wisdom you shall think convenient, and in your so doing you will greatly oblige us, who am your humble petitioners; and for your honours, as in conscience we are bound, shall forever pray.

Dated the 17th day of November, 1719.

John Darling,
Nicolass Cook,
Palatiah Smith,
Thomas Burch,
John Thompson,
Ebenezer Thayer,
Cornelius Darling,
Sam'll Hayward,
John Marsh,
Oliver Hayward,
Sam'll Rich,
John Thompson, junr.
Isaac Thayer
Ebenezer Thompson,
Richard Blood,
Joseph Holbrook,
Zurial Hall,
Daniel Corbit,
William Hayward,
James Smith,
Nicolass Cook, junr.
Jonathan Hayward,
Seth Cook,
Sam'll Thompson,
Sam'll Darling,
Joseph Thompson,
Nathaniel Wetherby,
Samuel Smith,
The inhabitants of Mendon.
John Holbrook,
Peter Holbrook,
Eliphalet Hollbrook,
John Corbet,—32.

In the house of representatives, Novr. 26, 1719. Read and ordered that the prayer of this petition be granted, and that township be erected and constituted according thereunto, and the plat above. Provided they procure and settell a learned orthodox minister within the space of three years next commencing, and that John Darling, John Thomson, and John Marsh be impowered to call a town meeting any time in March next to chuse town officers, and manage the other prudenciall affairs of the town.

JOHN BURRELL, *Speaker.*

Sent up for concurrence.

In councell, Nov. 27th, 1719. Read and concurred, the name to be called Bellingham.

JOSEPH HILLER.

Copy attest, THOS. CLARKE, *Dept'y Surv'y.*

A rough platt of the several acts of land herewith petetioned for, to make a town as scituate and joining each to other, with a demonstration of what lands they bound upon: as taken by a scale of a mile to an inch. (For plat see original.)

G.—Copies of grants of land in Wrentham.

N. B. This was made to show the province themselves, and the people on ye spot, had different sentiments as to the land—19.

Wrentham, March ye 28, 1698.

Granted to Daniel Farrington, and his heirs and assigns forever, a parcel of land on the great divident account, containing nineteen acres, at Jack's Pasture, on the east side of the brook, as it is bounded by his meadows in part, and the brook in part, W, and the way to the New Mill, so called, E, & Eleazer Fisher, S, and land laid out to John Bodwine, N.

Wrentham, March ye 28, 1698.

Granted to Daniel Farrington, and to his heirs and assigns forever, on the great divident account, eighty-seven acres at Jack's Pasture, by his meadow in part, east, and Cornelius Fisher, senr., north, and Papaluttock pond, west, and Cornelius Fisher, junr., south, with allowance two pole wide, cross it to Cornelius Fisher, senr.'s land.

WRENTHAM—9—4—85.

Granted to John Ware, and his heirs and assigns forever, a parcel of swampy land at Jack's Pasture, containing five acres, one rood, and fifteen pole, as it lyeth, bounded by John Blake, south, Cornelius Fisher, W., and upon the brook, W., and common upland, E.

WRENTHAM—9—4—85.

Granted to Thomas Thurston, and his heirs forever, a parcel of meadow land, containing two acres, lying on the Mill brook, as it lieth, bounded with Daniel Haws S.W., the brook N.W., and common upland on all other parts.

WRENTHAM—9—4—85.

Granted to John Hunting, and his heirs forever, a parcel of meadow, containing one acre, at the Mill brook, abutting upon the brook E., and upon his own meadow in part south and N., and upland on all other parts.

WRENTHAM—9—4—85—Lott 26.

Granted to Nathaniel Ware, and his heirs forever, a parcel of meadow, containing eight acres and sixteen pole, one parcel lying upon the Mill brook below the saw-mill abutting upon John Whiting S.E., and upon the brook westward, and upon upland eastward, all along down to the highway, going over next Daniel Haws' meadow, four acres, one rood, and twenty pole. Another parcel over the brook against said meadow, three acres, two roods, and thirty-six pole. Bounded by the highway next Daniel Hawes' meadow N.E., by the upland westward, Cornelius Fisher near the spring, coming off the hill southward, and upon the Mill brook eastward.

WRENTHAM—March ye 28, 1698.

Granted to Nathaniel Ware, and to his heirs and assigns forever, forty-four acres of land on the great divident account at the Mill brook, south of Benjamin Hall, and is bounded by common land, the brook running through part of said land.

The above written are true copys.

Attest: THEODORE MAN,
Proprietors' Clerk.

A true copy, examined.

By THO. WARD, *Secretary.*

WRENTHAM—March ye 28, 1698.

Granted to Cornelius Fisher, sen., and his heirs and assigns forever, a parcel of land, on the great divident account, containing fifty acres, laid out together with his timber land, being twelve acres, and also thirteen acres and three roods of Nathaniel Heaton's timber land, bounded by and abutting upon Charles river N. and west in part E., Paleluttock pond in part, and Jack's Pasture brook E., and on Daniel Farrington S.

WRENTHAM—9—4—85—Lott 32.

	Acres.	Rood.	Pole.
Granted to Daniel Haws, and his heirs forever, three parcels of meadow as they lie, for -	5	0	10
One parcel by Popyluttock pond - - -	2	0	10
Abutting upon Daniel Farrington, S., and upon the pond E., and upon upland, W., in part, and Charles river in part, and upon Sar'nt Fisher, N., more one parcel - - - -	2	0	0
Upon Mill brooke, abutting upon comon upland, S. W., and S. E., and upon Thomas Thurston, N. E., and the brook N. W., more - -	1	0	0

Abutting upon the Mill brook, W., against his own meadow, and upon Robert Ware, N., and common upland, on all other parts.

WRENTHAM—9—4—85.

Granted to Samuel Fisher, and his heirs forever, several parcels of meadow land, all which lieth for - - - - - - - -	5	0	10
One parcel upland meadow - - -	2	1	00
Abutting upon Charles river, N., and upon Samuel Fisher, jun'r., in part, and comon upland, in part, W., and upland, S. and E., more down stream A. round parcel bounded with the river, N., and upon all other parts, more down stream in a neck of the river, and bounded with the river, N. and E., and with Daniel Haws, southward - - - - - - -	1	3	10

WRENTHAM—March 28—1698.—Lott 37.

Granted to Ephraim Pond, and his heirs and assigns forever, a parcel of land on the great divident - - - - - -	55	0	0
Account including about five acres of meadow formerly laid out on Longwalk brook, bounded by the land of John Pond, in part, and Richard Puffor, in part, eastward, and Charles river, northward, and common land, west, and John Pond, south, with allowance for a way -			

WRENTHAM—October 1st—1716.

Granted to Jonathan Metcalf, and his heirs and assigns forever, ten acres of land at Charles river (viz:) two acres of his land that he had of Edward Gray, bounded by his own land west, and common land on all other parts - -

The above written are true copys.

Attest: THEODORE MAN,
Proprietors' Clerk.

A true copy, examined by THO. WARD, *Secr'y.*

WRENTHAM—April 23d—1752.

Theodore Man, of Wrentham, in the county of Suffolk, in the province of the Massachusetts bay, in New England, on his oath deposeth, that he now and hath for eight years last past, hath been clerk for the proprietors of the lands lying in the township of Wrentham, and that the ancient books of record concerning the said land now are, and during all the time aforesaid, have been in his care and keeping as being in the office aforesaid, and under oath, and that the within written copys by him attested as clerk as aforesaid, are true copys from the said books of records.

Errors excepted. THEODORE MAN.

SUFFOLK, *ss:*

WRENTHAM, *April 24th*, 1752.

Then personally appeared the above named Theodore Man, and made solemn oath, that the above written declaration by him made and subscribed to, is the truth. Errors excepted.

Before me, EBENEZER FISHER, *Justice of Peace.*

Bond for ye Mill Pond.

H.

To all persons that are Ebenezer Thayre, of Dedham,
in the county of Suffolk, the Massachusetts bay in New
England, James Alby, Obadya Wheelock, Jonathan
Howard, Joseph Rockwood, and of the above said county
send greeting: Know ye, that son Senior, John Holbrook, Sam'l.
Rich, John Corbitt, John Tomson, seph Rockwood, all of the
[said Mendon,
and Ebenezer Thayre, above said have by articles of agreement
had maide and concluded upon an instrument bearing date the
fifth day of March, on thousand undred ten eleven, de-
[termend and
obliged themselves, heyrs, excuitors, aminestrators, to buld and erect a saw mill and damme, and all necessarys, for the rendering the said sawmill serviceable on the river, commonly called Second Bridge river, abutting on the one side on said Mendon, on the side on a littell below the field belonging to said James Alby, junior, above ed; and know ye, that whereas, the damming said river will flood certain tracts or peces of medow belonging to us, the said Thayre and Alby, and Howard and Whellock, and Rockwood and Thayre: Now know ye, that we, the said Thayre and Alby, and Howard and Whellock, and Rockwood and Thayre, doe for ourselves, heyrs, assigns, executors, and administrators, grant and alow fre and full liberty to the above named proprietors of said sawmill to flood said meddows, so long as they shall se cause to keep up a mill, as they have condishoned in thaire articles of agreement; always provided, that they shall not shut down there gates to rase a pond before the first of September annually, and draw up and keep thaire floud gates drawn up from the first of May annually, until the ensuing first of September annually, and in token of our fre and voluntry agreing, and consenting unto the flooding said pieces of meddow to us belonging, in manner and form as above said, we have sett to, and affixed our hands and seals, this thirteenth day one thousand seven hundred and thirteen, and in the twelfth year of the reign of our sovereign lady Anne, of Great Britain, France, and Ireland, Queen.

his
OBEDIAY ⋈ WHELLOCK. [SEAL.]
mark.

JOSEPH ROCKWOOD. [SEAL.]

his
JONATHAN ⋉ HOWARD. [SEAL.]
mark.

his
SAME'L ⋉ THAYER. [SEAL.]
mark.

his
EBENEZER ⋉ THAYER. [SEAL.]
mark.

Signed and sealled in the presence,

her
HANAH ⋉ JAMES.
mark.

I.

Isaac Thayer—Deed to John Rockwood—Mend. Rec'd, Aug't 16—1756.

To all to whom these presents shall come, greeting:

Know ye, that I, Isaac Thayer, of Mendon, in the county of Worcester, in the province of the Massachusetts bay, in New England, yeoman, for and in consideration of the sum of seven pounds current money of New England, to me in hand, before the ensealing hereof, well and truly paid by John Rockwood, of Mendon, aforesaid yeoman, the receipt whereof I do hereby acknowledge, and myself therewith fully satisfied and contented, and thereof, and of every part and parcel thereof, do exonerate, acquit, and discharge him, the said John Rockwood, his heirs, executors, and administrators forever, by these presents; have given, granted, bargained, sold, aliened, conveyed, and confirmed, and by these presents, do freely, fully, and absolutely give, grant, bargain, sell, aliene, convey, and confirm, unto him the said John Rockwood, and his heirs and assigns forever, a certain piece of land and meadow situate, lying and being in Mendon aforesaid, containing in the whole about an acre and a quarter, be the same more or less, bounded at the northeast corner by Second Bridge river, runing by said river till it comes so as to make an acre of meadow crossing on a direct line, to said Rockwood's land, and by land of the said Rockwood, to the rhode leading to Holliston, and by the said road, to the bounds first mentioned, together with all the profits, priviledges, and appurtenances to the same belonging, and to every part or parcel thereof; to have and to hold the said granted and bargained premises, with all the appurtenances, priviledges, and commodities to the same belonging, or in any wise appertaining to him, the said John Rockwood, and to his heirs and assigns forever, to his and their only proper use, benefit, and behoof forever; and I, the said Isaac Thayer, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, to and with him the said

John Rockwood, his heirs and assigns, that before the ensealing hereof, I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same in my own proper right, as a good, perfect, and absolute estate of inheritance in fee simple; and have in myself good right, full power, and lawful authority, to grant, bargain, sell, convey, and confirm said bargained premises, in manner as aforesaid; and that he, the said John Rockwood, his heirs and assigns, shall and may from time to time, and at all times forever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances free and clear, and freely and clearly acquitted, exonerated and discharged of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, joyntures, dowries, judgments, executions, or incumbrances of what name or nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, I, the said Isaac Thayer, for myself, my heirs, executors and administrators, do covenant and engage the above demised premises to him the said John Rockwood, his heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, forever hereafter, to warrant, secure and defend, by these presents.

In testimony whereof, I have hereunto set my hand and seal, this second day of December, in the sixteenth year of his majesty's reign, anno domini, 1742.

his
ISAAC ⋈ THAYER. [SEAL.]
mark.

Signed, sealed, and delivered, in presence of us,
his
SAMUEL + THAYER.
mark.
URIAH THAYER.

WORCESTER, *ss.*, *March ye* 6.

Isaac Thayer, the within named grantor, personally appearing, acknowledged the within written instrument to be his free and voluntary act and deed before me.

DANIEL TAFT, *Justice of Peace.*

WORCESTER, *ss:*

Witness August 16, 1756.—Received and recorded in the records of deeds for said county, lib. XXXVII, page 382.

Pr. J. CHANDLER, *Rgr.*

J.—Albee to Corbett. Received October 22d, 1765.

Know all men by these presents, we, John Corbet, of Bellingham, in the county of Suffolk, in his majesty's provence of ye Massachusetts bay, in New England, physician, and John Albee,

jun'r, of Mendon, in the county of Worcester, in ye province aforesaid, husbandman, for and in consideration of the sum of twelve shillings lawful money, well and truly in hand, before the ensealing hereof, paid by ye said John Corbett, to ye said John Albee, have agreed upon the bounds between our lands in said Bellingham, which lies north from ye county road, and stated them as followeth: beginning at a stake standing by Charles river, outherwise caled Second Bridge river, and then runing southerly, with a direct line about thirty-four rods, to a small mapel stand marked, there being a small white oak marked standing in ye aforesaid line, and then running down strem ye said river upon an old ditch to ye end of ye said ditch, and from thence running in ye line which has lately been acknowledged by ye aforesaid partys to ye said river—to the above said agreement we, the said John Corbet and John Albee, do bind ourselves, our heirs, executors, administrators and assigns, forever, to stand and abide by and observe.

In witness whereof, we, the said John Corbett and John Albee, have hereunto sett our hands and seals, this sixteenth day of May, in ye twenty-fifth year of his majesty's reign, anno domini 1752.

JOHN CORBETT, [SEAL.]
JOHN ALBEE, Jun'r. [SEAL.]

Signed, sealed and delivered in presence of—
JOHN ALBEE.
JOHN SPRIAGUE.

WORCESTER, *ss.*, *August* 31*st*, 1752.

John Corbett and John Albee, ju'r., acknowledged this instrument to be their act and deed before me,

WILLIAM RAWSON, Ju'r., *Justice Pacis.*

Boston, October 22, 1765. Received and entered with the records of deeds for the county of Suffolk.
Libo. 106, folio 112, &c.

Pr. EZEK'L GOLDTHWAIT, *Regr.*

K.—Richard K. Randolph, esq., Newport, R. I.

"Six acres of John Darling's fifth division laid out for Benjamin Albee, on the west side of Second Bridge river, above Medfield road, joinin to his other land, bounded east on said land seventy rods; the southeast corner being a white oak tree marked; the northeast corner being a white oak tree and walnut stand marked; north, in common, twenty-five rods to white oak tree marked, being the northwest corner; west, on common, seventy rods to a stake, being the southwest corner; south, on common, sixteen rods to the southeast corner; the whole containing eight acres and three quarters; two acres and three quarters allowed. January 25th, 1715, by Thomas White, John Thompson and Thomas Sanford, committee."

The foregoing is a true copy taken from the proprietor's record, in Mendon, book, No. 1, page 101.

Attest: STEPHEN TAFT,
Clerk of Mendon.

"The swamp lot belonging to the said lot of Jacob and Seth Aldrich, being two acres and twenty-three rods laid out upon Second Bridge river, the greatest part on the west side of said river, twenty-four rod on the east side of said river, bounded by a line of marked treese from the river to the upland, on common, and on the west side, and on the west side the river bounded on common by a line of marked treese, a little down stream from the north Cedar swamp. Laid out, November 4th, 1689, by Josiah Chapin."

The foregoing is a true copy taken from the proprietors' record, in Mendon, book No. 1, page 144.

Attest: STEPHEN TAFT, *Clerk of Mendon.*

The way from ye Mill plain, towards John Rockwood, jun'r, &c.

"MENDON, *August ye* 21*st*, 1718.

"Then laid out by Lieut. Thomas Thayers and William Hayward, by order and appointment of the selectmen, for the towns' use, a way easterly of ye Mill plain, beginning at Jacob Aldriche's land, and so going along ye road as it is now drawn to a black oak tree near Ben'm Albee's house; said tree being on ye southeast side of said way; thence to said Albee's corner; thence to a white oake tree, marked on ye same side said way, entering on ye second plain; so along said plain to ye bridge over Second river a white oake tree marked on ye east side of said river near ye bridge; so to a heap of stones on a rock; thence turning to ye right hand to a heap of stones on a rock; thence to a black oake stub marked; so into ye old road."

The foregoing is a true copy taken from the proprietors' record in Mendon, book No. 1, page 465.

Attest: STEPHEN TAFT,
Clerk of Mendon.

MENDON, *May* 25, 1843.

L.

We, the subscribers, met Feb. 22, 1765, a Doctor John Corbit's, and, having viewed and judged it convenient to turn the four rod road or way which leads from Mendon through Bellingham to Medway, near John Corbett house, viz: Begining about rods east of Second Bridge river, (so called,) and thence running easterly cross a crossway into the old way against the said new road, being about 132 rods, all on the land of Doc. John Corbitt, which he promises to give, four rods wide, as now drawn, if the town will discontinue all the old way or road to line, excepting two rods, cross

the old way from the north to the south 2 rod way, so as to continue the cross way into new way; and the said Corbitt promisses to make said new way, if allowed by the town, as good as the old one now is.

AARON HOLBROOK,
JOSEPH HOLBROOK,
DANIEL COOK,
Selectmen of Bellingham.

Voted, that the return of the selectmen altering the way near Doct. Corbitt's house be excepted, provided the new way be made as good as the old one, is the judgment of the selectmen, and to return into the town clerk's, under their hand, in order to be recorded within 8 months from this date. Passed in the affirmative.

A true copy of record.

A test: FRANCIS D. BALES,
Town Clerk of Bellingham, Mass.

BELLINGHAM, *May 25th*, 1843.

M.—John Rocket's deed to John Corbet, Decr. 27th, 1756, rec'd by the com'ee.

To all christian people to whom these presents shall come, John Rocket, of Mendon, in the county of Suffolk and province of the Massachusetts bay, in New England, yeoman, sendeth greeting:

Know ye that I, the said John Rocket, diverse good and valuable consideration me thereunto moving; but more especially for and in consideration of my naturall affection unto my beloved grandchild John Corbet, of said Mendon, (whom I have educated and brought up from his younger years,) and for his future accomodation have given, granted, aliened, enfeoft and confirmed, and doe give, grant, aliene, enfeoffe and confirme unto him, the said John Corbet, a 5ve acre lot, with all its town rights and appurtenances, according to the manner of dividing of lands in said town of Mendon, the town lott, doubling lot, and twenty-one acres more, containing all the present divisions of meadow and swamp thereunto belonging, and part of the great lott and fourth division of upland, lying and being upon the east side of the Second Bridge river, up stream of the bridge built over said river where the main county road goes to Meadfield, bounded westerly partly on said Charles river, alias Second Bridge river, and partly on the meadow belonging to James Albee, senr., northerly upon meadow of said James Albee, easterly upon common land, southerly upon the countrey road, nine acres more, being the full complem't of all the present division of uplands upon the east side of Second Bridge river below the countrey road toward Meadfield, being a part of my fourth division of upland, bounded west on meadow in my own possession, north on my own lands by a line of thirty-two rod, east on common lands by a direct line of forty rodds, southerly on common

lands by a line of forty rodds, the said homestead and all its divisions mentioned, and as they are above bounded, to him, the said John Corbet, to have and to hold, and by him, his heyrs and assignes, as a good estate, in fee simple, and to his and their proper use, benefit and behoof, forever to be holden, with all priviledges and appurtenances whatsoever, forever hereafter to be holden firmly by these presents. Moreover, I, the said John Rocket, doe, by these presents, own and acknowledge myself to be the true and proper owner of the above granted premises, and every part and particular therein specified at ye time of their present alienation, and that the premises, and every part and parcel thereof, are free and clear, and freely and clearly acquitted, exonerated, and discharged of and from all and all manner of former gifts, grants, bargains, sales, dowrys, mortgages, leases, bills, bonds, arrests, judgments, executions, extents, or any other legall encombrances whatever, had, made, done, or suffered to be done, by me or any other person or persons acting by, from, or under me, from the begining of the world to this the time of their present disposalls. Finally, I, the said John Rocket, do covenant and promise to my said grandchild John Corbet aforesaid, that I will now, and at all times hereafter, warrant and defend the title and tenure of the above disposed premises, to him, the said John Corbet, from all persons by, from and under me claiming, any right, or title to, or interest in the premises, or any part or parcel thereof forever, promising to doe, or cause to be done, whatever shall be necessary for the more sure making of the title of the above demised premises.

In witness, each and singular the above granted premises, I, the said John Rocket, have hereunto sett and affixed my hand and seale, this tenth day of December, one thousand seven hundred and three, and in the second year of the reign of our sovereign lady Ann, by the Grace of God, of England, Scotland, France and Ireland, queen.

his
JOHN ⋈ ROCKET. [SEAL.]
mark.

Signed, and sealed and delivered, the day and year as above, in the presence of us:

JAMES EMERSON,
JOSEPH ROCKETT.

SUFFOLK, *ss:*

John Rockett personally appeared before me, the subscriber, one of her majestie's justices of the peace for said county, and did acknowledge this instrument to be his act and deed, this 10th Dec'r, 1703. JNO. WILSON, *Justice.*

Boston, July 16th, 1712.—Received and recorded with the records of deeds for the county of Suffolk, libo. xxvi, folio 197, &c.

Pr. ADDINGTON DAVENPORT, *Register.*

1.—*Mendon Records,* (5 *papers.*)

No. 9, A.—Six acres of John Darling's fifth division land out of Benjamin Albee, on the west side Second Bridge river above Medfield road, joining to his other land, bounded east on said land seventy rods, the southeast corner being a white oake tree marked, the northeast corner being a white oake tree and walnut, stands marked; north on common twenty-five rods, to a white oake tree marked, being the northwest corner; west on common seventy rods, to a stake, being the southwest corner; south on common sixteen rods, to the southeast corner; the whole containing eight acres and three-quarters; two acres and three-quarters allowed.

By THOMAS WHITE,
JOHN THOMPSON, and
THOMAS SANFORD,
Committee.

January 25, 1715.

The above is a true copy of record, (except my othography,) taken from the proprietors' record, book No. 1, page 101.

Attest: STEPHEN TAFT,
Clerk of Mendon.

2.—*Mendon Records.*

The first division of meadow belonging to said lot, part lying upon Muddy brook, bounded southerly by said Muddy brook, northerly upon said Albee's twenty-acre house lot, and upon the land of Benjamin Albee, down stream; another part lying upon the Second Bridge river, bounded up stream upon John Rocket's meadow, down stream with Mathias Puffer's meadow—common land on both sides; the remainder of his share being one acre, lying upon the Second Bridge river, at the upper end of his father's meadow. Laid out by Joseph White.

The great lot, belonging to the above said lot, twelve acres and half, laid out upon the second plaine at a little distance from Fernd-nando Thayer's meadow, that lieth upon Second Bridge river, bounded round with common, eighty rods in length and twenty-five in breadth. Laid out, 1st November, 1686, by Josiah Chapin.

The remaining part of the swamp lot, belonging to said Albee's ten acre lot, with ten acres of the fourth division of land laid out together, upon the north side of the Second Bridge river, bounded southerly upon said river up stream, bounded upon a maple tree, westerly upon common land, with a line of marked trees, to a red oak, being the northwest corner; northerly upon common land, with a line of marked trees, to a stake, being the northeast corner, this line being forty-three rod in length; easterly on common land, with a line of marked treese, to the river, forty rods in length. Laid out by Thomas White, 23 of May, 1702.

The foregoing are true copies of record, (taken from proprietor's record book. No. 1, page 98,) except in authography.

Attest: STEPHEN TAFT,
Clerk of Mendon.

3.—*Mendon Records.*

March 2d, 1701-2. At a general town meeting for the choice of town officers.

March 2d, 1702. The town granted to Dennis Darling four acres of land adjoining unto his own meadow, at the Second Bridge river, at the above said meeting; it was granted to William Holbrook to leave his second division of meadow upon the west side of the Mill river above the Mill pond, and take it up elsewhere.

The return —— he four acres of land above granted to Dennis Darling, laid out the —— 1702, bounded easterly upon said Darling's meadow, on the west side of Second Bridge river, twenty rods in breadth, the northeast corner being a stake; north on common land with a direct line to a stake, being the northwest corner thirty and two rods in length, west on common land, with a direct line from said corner, to a stake, being the southwest corner, south on John Rocket's land by Thomas White.

The foregoing is a true copy of record (except in authography) taken from Mendon town book, purporting to be the first record of Mendon: comenced in the year 1663, page 118.

Attest: STEPHEN TAFT,
Clerk of Mendon.

4.—*Mendon Records.*

The second division of meadow, being thirteen acres and a quarter, be it more or less, is bounded as followeth, one part of it lying upon the Second Brigg river, bounded up stream upon the highway, it goes to Bever dam meadow; down stream, upon the east side of the river, upon Benjamin Albee's meadow, upon the west side of the river upon John Rocket's meadow, easterly and westerly with uplands. Another part lying at the upper end of Bever dam meadow, bounded northerly upon common land, down stream *stream* upon Samuel Hayward's meadow, easterly and westerly upon common land, the remainder of said meadow lying upon the east side of Muddy brook, bounded up stream with William Holbrook's meadow, down stream with the line of his lot, westerly with the brook, easterly with common land. Laid out by Joseph White.

The foregoing is a true copy of record (proprietor's record, book No. 1, page 59) except in authography.

Attest: STEPHEN TAFT,
Clerk of Mendon.

5.—*Mendon Records.*

July 17, 1704. Eighteen acres of land laid out for James Albee, on the east side of Second Bridge river, below Medfield road, joining to his other land six acres of it, bounded on his other land southerly thirty-two rods; westerly on common thirty rods to a white oake tree, being the northwest corner northerly on common thirty-two rods; east thirty rods.

Twelve acres more westerly, bounded on said Albee's land, northerly on common twenty-seven rod and half to a white oake tree, being the northeast corner easterly on common seventeen rods to a bunch of maples, being the southeast corner; southerly on Second Bridge river to his other lands, by Thomas White.

July 17, 1704. Two acres more of said twenty acres laid on the west side Second Bridge river, above Medfield road, joining to said Albee's meadow; bounded southerly upon said meadow, easterly upon Second Bridge river thirty rods; northerly on common eleven rods, westerly on common thirty rod the whole twenty acres, being part of the forth division John Spragues lot, by Thomas White.

February the 1, 1706.—Laid out, by James Albee, twelve acres and half, third division on the east side Second Bridge river below Medfield road; bounded south part on Sam'l Cook's land, part on common, eighty rod, it being twenty-five rod in bredth; the southeast corner being a stake and a white oake tree marked by it; the other three corners being white oake treese marked. Laid out by Thomas White.

The foregoing are true copies of record (except orthography) taken from the proprietor's record, book No. 1, page 99.

Attest: STEPHEN TAFT,
Clerk of Mendon.

Copy.

Partridge to Partridge.—L. 91—F. 153—1719.

No. 10.—Partridge to Partridge.

To all to whom these presents shall come, Eleazer Partridge, senr., of Medfield, in the county of Suffolk, in his majesty's province in New England, send greeting: Know ye, that I, the said Eleazer Partridge, for divers good causes and considerations moving me thereunto, but especially for and in consideration of thirty shillings in current pay, in hand already received of my brother, Samuel Partridge, of Medway, in said county and province, in said New England, wherewith I acknowledge myself well satisfied and contented, and for said causes and pay have sold, given, and granted, and by these presents do give, grant, bargain, sell, alienate, make over, enfeoffe, and confirm unto said Samuel Partridge, and to his heirs, executors, administrators, and assigns forever, all my right,

title, interest, and property, in fifty acres of land, be it more or less, as it lieth, in said Medway, in said county; said fifty acres of land being formerly granted, by the town of Medway, to the undertakers of a grist mill upon Charles river, and bounded with said river southwardly, according to the various turnings thereof, and with the common land westward, and northward by a varied line, and with land granted to George Barbur eastward. My right, title, interest, and property, which here I do sell, is one half of a twelfth part, and one quarter of a twelfth part of said fifty acres of land; all the which said rights, and singular, all the woods, underwood, timber, fences, and herbage, in and upon the same, with all the rights, liberties, privileges, fruits, effects, profits, and improvements of the same, together with all the appurtenances and hereditaments to the same, or any way belonging, or any way appertaining; the said, Samuel Partridge to have and to hold, to him and his heirs, executors, administrators, and assigns, as his and their proper right and possession, to his and their proper use and benefit, from the delivery of these presents forever. And I, the said Eleazer Partride, do, at the ensealing hereof, declare myself to stand lawfully seized, in my own proper right, of and in said premises; and also, do hereby grant all said premises an absolute, free, and clear estate of inheritance, in fee simple, unto the said Samuel Partridge, and his heirs and assigns, as is above said freely and clearly acquitted of, and discharged from, all former bargains, sales, gifts, grants, alienations, leases, titles, entails, judgments, jointures, dowery, mortgages, executions, mortgages, and incumbrances whatsoever, from me, and from any under or by me, or any of mine, whereby the said Samuel Partridge, or his heirs, executors, administrators, or assigns, should be molested in, or ejected out of, the quiet and peaceable possession of said premises, from the delivery of these presents forever. And I, the said Eleazer Partridge, do further bind and oblige myself to warrant, maintain, and defend said rights, unto and upon said Samuel Partridge, and his heirs and assigns, against the lawful claims and demands of all and every person and persons, whomsoever; and also, to do, at the charge of my brother, Samuel Partridge, any further act or acts, thing or things, needful for the full, absolute, and perfect confirmation and settlement of all said premises, unto and upon my said brother, Samuel Partridge, and his heirs, executors, administrators, and assigns, as is above said, from the delivery of these presents forever: and for the full, absolute, and perfect confirmation and settlement of all above said, as is above said, I, the said Eleazer Partridge, do, by these presents, bind myself, my heirs, executors, administrators, and assigns; as witness my hand and seal hereunto set and fixed, this tenth day of July, seventeen hundred and nineteen.

ELEAZER PARTRIDGE, and a seal.

Signed, sealed, and delivered, in presence of us,

JOHN FISHER,

JOSEPH RICHESON.

SUFFOLK, *ss.*

At a court of general sessions of the peace, begun and held at Boston, within and for the county of Suffolk, on the first Tuesday of April, A. D. 1758, the within named Joseph Richeson (one of the witnesses) personally appeared, and made solemn oath that he was present, and saw the within named grantor, Eleazer Partridge, (now deceased,) sign, seal, and deliver the within instrument, as his free act and deed; and that he and John Fisher, also deceased, set too their names, as witnesses to his executing the same.

Attest: EZEKL. GOLDTHWAITE, *Clerk.*

April 5, 1758.

Received, and accordingly entered and examined.

Per EZEKIEL GOLDTHWAITE,
Register.

A true copy, from the records of deeds for the county of Suffolk. Lib. 91, fol. 153.

Attest: HENRY ALLINE, *Reg.*

Copy.

Harding to Whiting.—L. 93—F. 217.

5th October, 1754.—Bounded north on Charles river; east on Jack's pasture brook.

No 11.—Harding to Whiting.

To all people unto whom this present writing shall come, Samuel Harden, of Woodstock, in the county of Windham, in the colony of Connecticutt, yeoman, and Abigail Harden, his wife, Joseph Haws, and Hannah Haws, his wife, Kezia Fisher, Mary Fisher, and Joshua Fisher, all of Wrentham, husbandmen and spinsters, and in the county of Suffolk, within his majesty's province of the Massachusetts bay, in New England, the children and heirs of Cornelius Fisher, late of Wrentham, aforesaid, yeoman, deceased, sends greeting:

Know ye, that we, the said Samuel Harden and Abigail Harden, Joseph Haws and Hannah Haws, Kezia Fisher, Mary Fisher, and Jerusha Fisher, for and in consideration of the sum of three hundred nineteen pounds, lawful money, to us in hand well and truly paid by Joseph Whiting, jun'r, aforesaid, husbandman, the receipt whereof we do hereby acknowledge is to full content and satisfaction, and thereof, and every part and parcel thereof, do acquit, exonerate, and discharge him, the said Joseph Whiting, his heirs, executors, and administrators, and every of them, forever, by these presents, and for divers good causes and considerations us hereunto moving, have given, granted, bargained, sold, alined, enfeoffed, remised, released, quit-claimed, and confirmed, and by

these presents do fully, freely, clearly, and absolutely give, grant, bargain, sell, aliene, enfeoff, remise, release, quit-claim, and confirm unto him, the said Joseph Whiting, in his full, quiet, and peaceable possession and seizen now being, and to his heirs and assigns forever, all the estate, right, title, interest, inheritance, shear, portion, proportion, dividend, property, possession, reversion, remainder, claim, and demand whatsoever, which we, the said Samuel Harden, Abigail his wife, Joseph Haws and Hannah his wife, Kezia Fisher, Mary Fisher, and Jerusha Fisher, ever had, now have, or which our heirs or assigns, in time to come, can, may, might, should, or in any wise ought, to have or claim, of, in, and to all and singular the houses, edifices, buildings, lands, tenements, yards, gardens, orchards, grounds, meadows, arrable land, upland, woodland, swamps, commons and commages, with the privileges, commodities, hereditaments, emmoluments, and appurtenances whatsoever thereof and thereto belonging, which the said Cornelius Fisher, dec'd, dyed seized and possessed of, containing eighty acres of land, be the same more or less, butted and bounded as followeth, viz: on Charles river, north and west in part, Pabalatick pond in part, and Jack's Paster brook east, and on the land of the heirs of Daniel Kingsbury south, and on the way east, and on the land of Joseph Ellis, deceased, north; more twenty-six acres of land in Wrentham, aforesaid, be the same more or less, part pine swamp, and part upland, bounded northerly on Nathl. Whiting and John Whiting's pine swamp, and westerly on Clark's meadow, and in part north on the land of Samuel Pattridge, and on common land easterly; to have and to hold all and singular the above granted and released premises, with the appurtenances, and every part and parcel thereof, unto the said Joseph Whiting, his heirs and assigns forever, to his and their own sole and proper use, benefit, and behoof, from henceforth and forevermore, freely, peacefully, and quietly, without any manner of reclaim, challenge, or contradiction of us, the said Samuel Harden, Abigail Harden, Joseph Haws, Hannah Haws, Kezia Fisher, Mary Fisher, and Jerusha Fisher, our heirs and assigns; and without any accompt, reckoning, or answer thereof, to be given, rendered, or done, in time to come to us or them; so that neither we, the said Samuel Harden, Abigail Harden, Joseph Haws, Hannah Haws, Kezia Fisher, Mary Fisher, and Jerusha Fisher, our heirs and assigns, nor any other person or persons for us or them, or in our or their names, right, or stead, shall or will, by any ways or means hereafter, have claim, challenge, or demand any estate, right, title, or interest, of, in, or to the premises, or any part thereof; but of and from all and every action of right, estate, title, interest, claim, and demand, of, in, and to the premises, and every part and parcel thereof, we, ourselves, and every of them, shall be utterly excluded and forever debarred by these presents; and the said bargained, released, and confirmed premises, with their and every of their

appurtenances, unto the said Joseph Whiting, his heirs and assigns, and against the lawful claims and demands of all and every other person and persons whomsoever, shall and will warrant and forever defend by these presents.

In witness whereof, we, the said Samuel Harden, Abigail Harden, Joseph Haws, Hannah Haws, Kezia Fisher, Mary Fisher, and Jerusha Fisher, have hereunto set our hands and seals, the fifth day of October, in the year of our Lord one thousand seven hundred and fifty-four, and in the twenty-eighth year of the reign of our sovereign lord, George the second, by the grace of God, of Great Britaian, France, and Ireland, king, defender of the faith, &c.

SAMUEL HARDING, and a seal,
ABIGAIL HARDING, and a seal,
JOSEPH HAWS, and a seal,
her
HANNAH ⋈ HAWS, and a seal,
mark.
her
KEZIA ⋈ FISHER, and a seal,
mark.
MARY FISHER, and a seal.

Signed, sealed, and delivered in presence of us,
JOSEPH WRIGHT,
JAMES BOYDEN,
LEONARD FISHER,
ELISHA POND.

SUFFOLK, *ss:*

WRENTHAM, *October 5th*, 1757.

Samuel Harden, Abigail Harden, Joseph Haws, Hannah Haws, Kezia Fisher, the signers, personally appearing and acknowledged the aforegoing instrument to be their free act and deed.

Before me, EBENEZER FISHER, *Jus. Peace.*

SULFOLK, *ss:*

MEDWAY, *March* 21, 1757.

Then the above signer, Mary Fisher, appeared, and acknowledged this instrument to be her free act and deed.

Before, JEREMIAH ADAMS, *Jus. Peace.*

JANUARY 8, 1760.

Received, and accordingly entered and examined.

Per EZEK'L GOLDTHWAIT, *Reg'r.*

A true copy from the record of deeds for the county of Suffolk. Lib. 93; fol. 217.

Attest: HENRY ALLINE, *Reg.*

Act incorporating the town of Franklin, 1778.—No. 12.

State of Massachusetts bay, in the year of our Lord one thousand seven hundred and twenty-eight.

An act for incorporating the westerly part of the town of Wrentham, in the county of Suffolk, into a town by the name of Franklin:

Whereas the inhabitants of the westerly part of the town of Wrentham, in the county of Suffolk, have represented to this court the difficulties they labor under in their present situation, and apprehending themselves of sufficient numbers and ability, request that they may be incorporated into a seperate town.

Be it therefore enacted by the council and house of representatives in general court assembled, and by the authority of the same, that the westerly part of said town of Wrentham, separated by a line as follows, viz: beginning at Charles river, where Medfield line comes to said river, thence running south seventeen degrees and an half west, until it comes to one rod east of the dwelling house of William Mann; thence a strait line to the eastwardly corner of Asa Whiting's barn; thence a strait line to sixty rods due south of the old cellar, where the dwelling house of Ebenezer Healy formerly stood; thence a due west course by the needle to Bellingham line, said Bellingham line to be the west bounds, and Charles river the northerly bounds, be, and hereby is, incorporated into a distinct and separate town by the name of Franklin, and invested with all the powers, priviledges, and immunities, that towns in this State do or may enjoy.

And be it further enacted by the authority aforesaid, that the inhabitants of said town of Franklin, shall pay their proportion of all State, county and town charges, already granted to be raised in the town of Wrentham, and also their proportion of the pay of the representatives for the present year; and the said town of Wrentham and town of Franklin shall severally be held punctually to stand by and perform to each other the terms and proposals contained and expressed in a vote of the town of Wrentham, passed at a public town meeting, the sixteenth day of February, 1778, according to the plain and obvious meaning thereof.

And be it also enacted by the authority aforesaid, that Jabez Fisher, esq., be, and he hereby is, authorized and required to issue his warrant to one of the principal inhabitants of said town of Franklin, authorizing and requiring him to notify and warn the freeholders and other inhabitants of said town, to meet together, at such time and place as shall be expressed in said warrant, to choose such officers as towns are authorized by law to choose, and transact other such lawful matters as shall be expressed in said warrant.

And be it further enacted, that the inhabitants living within the bounds aforesaid, who, in the late tax in the town of Wrentham, were rated one-half part so much for their estates and faculties, as

for one single poll, shall be taken and holden to be qualified and to be allowed to vote in their first meeting for the choice of officers, and such other meetings as may be called in said town of Franklin, until a valuation of estates shall be made by assessors there.

In the house of representatives, March 2, 1778, this bill having been read three several times, passed to be enacted.

J. WARREN, *Spkr.*

In council, March 2, 1778, this bill having had two several readings, passed to be enacted.

JNO. AVERY, *D'y Sec'y.*

We consent to the enacting this bill.

Jere. Powell,
A. Ward,
W. Spooner,
Caleb Cushing,
Richard Derby, jr.,
T. Cushing,
Moses Gill,
John Taylor,
Jabez Fisher,
S. Holton,
Benj. Austin,
D. Hopkins,
D. Sewall,
Phinehas Danielson,
Josiah Stone.

The preceding is a true copy of the original act.

Attest: JOHN P. BIGELOW,
Sec'y of the Com'th.

CLASS THIRD.

No. 1.—Running of commissioners of Massachusetts and Plymouth, in 1664, of their dividing line.

Massachusetts and Plymouth survey.—1664.

COLONY OF MASSACHUSETTS BAY, 1664.

Whereas the general courts of the colony of Massachusetts and New Plymouth, in New England, did (in order to the settlement of the bounds line betwixt the said colonies—that is, so much thereof as is hitherto undetermined) order, depute, and impower us whose names are hereunto subscribed for the effecting thereof, as by that act of theirs, recorded in the records of the respective courts in each colony, may more fully appear; we, the persons so intrusted and impowered, in pursuance of the service aforesaid, being all assembled at Dedham, the 9th of the 3d month, commonly called May, anno 1664, did, the day next ensuing, travel together into the woods for the discovery of the southermost part of Charles river, which having found out partly by our own view and partly by the satisfying report of them present with us that had labored therein, we all mutually agreed upon the first station; having measured three miles southerly of the southermost part of s'd river, we marked a tree, and from thence a west line to Neetmock river, which by estimation we judged to be about five miles; in which line we went on the north side of a great pond, over a small parcel of coarse meadow, and on the southerly of which pond is

an Indian plantation, by them called Seenechecourt, and at the s'd Neetmock river, we marked a black oak tree on four sides, viz: with an M on the north side and a P on the south side, and several letters under each of them; and on the east we set in figures the date of the present year. This tree so marked standeth on the side of an hill, over against which lieth, on the west side of the river, the north end of a parcel of coarse meadow; and having marked divers trees in this line, from thence we came back about three miles and a half, past the tree first mentioned, to that station which is the east end of this west line, where we marked a white oak in a plain full of trees, in the same manner we had marked the tree by the river aforesaid; at which place we made an angle, and began an east northeast line to come to Accord pond, in following of which we were east more than half a mile to the southward of the middle of s'd pond (the bounds formerly settled); for the rectifying whereof, we, having found the middle of the said pond, *we* marked there a black oak tree as the trees formerly mentioned, with letters and the date of the year, and so returned west southwest southerly by marked trees in that line, up to a footpath that goeth from Weymouth to Bridgewater, on each side of which path in the line we erected a heap of stones; and so thence to a maple tree by a swamp side that leaneth to the north, and at a cartway that goeth from Braintree to Bridgewater; we ended that line at a heap of stones on the west side of the path, and a great marked stake on the east.

Finally, we agreed that the line stretched from Accord pond upon such a course, and so marked, and so as above s'd, to the white oak angle tree before mentioned, and from that oak westerly to Neetmock river, as is before described, is and shall be accounted and reputed the true and settled bound line betwixt the colonies of Massachusetts and New Plymouth; and that the line by us first drawn and marked from the said angle tree to Accord pond, shall not be understood to be the line of division, it being wholly within Plymouth land. The length of the whole line is by estimation, as we judged, about forty miles, according to the line before expressed. Unto all which, we, the parties respectively entrusted and impowered, do each and every of us mutually agree, concur, and do hereby declare it to be our full conclusion and final determination concerning the premises.

In witness whereof, we have hereunto set our hands and seals, the 17th of 3d month, 1664.

ROBERT STUDSON, and seal.
CONSTANT SOUTHWORTH, and seal.
JOS. WINSLOW, and seal.
JOS. FISHER, and seal.
ROG. CLAP, and seal.
ELEA LUSHER, and seal.

This was read in full court, May 29th, 1664, as attests
EDWARD RAWSON, *Secretary.*

This copy is drawn from a copy of the records of the general court, attested by John Avery, jr., secr.
CYRUS COMSTOCK.

WRENTHAM, *July* 22, *A. D.* 1791.

Copy of letter from Massachusetts in 1709.—*No.* 2.

BOSTON, *July* 25*th*, 1709.

HON'BLE SIR: His excellency this day communicated to the council hon'rs letter of the 22d current, intimating the appointment of acom. your government, to run and state the line betwixt this province colony, to be attended upon the second of August next. I am commanded by his excellency and council to acquaint you that the southern line of this province (and beyond,) where it touches on and antiently run before that is so notorious and well known, that they apprehend there is no room for such motion at this time, as ward a new line to be made; but if it be thought necessary, your people doing thereon should be more certainly informed and knowing thereof; they no doubt but the general assembly, when sitting, will be easily prevailed with to appoint a surveyor to go upon the line with some of yours, to them, and to know the marks where they are any way repared or defaced.

In case there be any thoughts of controverting that line, or making alterations therein, it's thought improper for the government here to enter any controversy of that nature, but that it be proceeded in by directi. and order from the crowne.

JSA. ADDINGTON, *S.*

Law of Connecticut establishing a ferry in Windsor, in 1642.

No. 3.

COLONY OF CONNECTICUT, *ss.*

At a general court, held by adjournment on the last Wednesday in March, 1642.

The town of Windsor provide a ferry boat to attend the river. They are to be allowed three pence for a single passenger, and two pence for a person when they carry more than one at a freight; and twelve pence for a horse.

STATE OF CONNECTICUT, *ss.*

OFFICE OF SECRETARY OF STATE, *Nov.* 5, 1842.

I certify that the foregoing is a true copy of record in this office.
N. A. PHELPS,
Secretary of State.

COLONY OF CONNECTICUT, *ss.*

At a session of the general court, in Hartford, this 25th January, 1648.

John Bissell undertakes to keep, and carefully to attend, the ferry over the great river at Windsor, for the full term of seven years from this day; and that he will provide a sufficient boat, for the carrying over of horse and foot upon all occasions; and that, if his own occasions should necessitate him at any time to go out of call from his house or ferry, that then he will provide some able man, in his room, to attend that service; for which the said John Bissell is to have, of those that he ferries over, eight pence for every horse or mare, and two pence for every person that goes over therewith, or that hath another passenger to go over the said ferry at the same time; and three pence for every person that goes over the said ferry alone, single, or without any more than himself at the same time. And the court prohibits all other persons (except the inhabitants of Windsor, who have liberty to carry over themselves or neighbours in their own canoes or boats,) from carrying over the said ferry any passenger or passengers, when the said John Bissell or his assign is present, or within call of his house or ferry, as aforesaid, to attend that service; and if any person or persons, as aforesaid, shall at any time during the aforesaid term go over, by Indians or English, that have not boats or canoes of their own that they pass over the said ferry in, they shall as truly pay eight pence for every horse or mare, and two pence for every person, as if they went over with him. And the court also gives the said John Bissell liberty to relieve such strangers and passengers as cannot go to the ordinary, and to take of them convenient and reasonable recompense for the same.

This was consented to by John Bissell, in court.

STATE OF CONNECTICUT, *ss.*

OFFICE OF SECRETARY OF STATE, *Nov.* 5, 1842.

I certify that the foregoing is a true copy of record in this office.

N. A. PHELPS,
Secretary of State.

Copy of commission from Charles the 2d, to settle disputes about boundaries, 1664.

No. 4.

Charles the Second, by the grace of God King of England, Scotland, France, and Ireland, defender of the faith, &c.—To all to whom these presents shall come, greeting:

Whereas, we have received several addresses from our subjects of several colonies in New England, all full of duty and affection, and expressions of loyalty and allegiance to us, with their humble desires that we would review their several charters, and receive them

into our favourable opinion and protection; and several of our colonys there, and other of our loving subjects, have likewise complained of differences and disputes, arisen about the limits and bounds of their several charters and jurisdictions, whereby unneighbourly and unbrotherly contentions have and may arise, to the damage and discredit of the English interest; and that all our good subjects residing there, and being planters within the several colonys, do not enjoy the libertys and priviledges granted to them by our several charters, upon confidence and assurance of which they transported themselves and their estates into those parts: and we having received some addresses from the great men and natives of those countreys, in which they complain of breach of faith, and acts of violence and injustice which they have been forced to undergo from our subjects, whereby not only the Government is traduced, but the reputation and credit of Christian religion brought into prejudice and reproach, with the Gentiles and inhabitants of those countreys who know not God, the reduction of whom to the true knowledge and fear of God is the most worthy and glorious end of all those plantations. Upon all which motives, and as an evidence and manifestation of our fatherly affection towards all our subjects in those several colonys of New England, that is to say: of Massachusetts, Connecticutt, New Plymouth, Rhode Island, and the Providence Plantations, and other plantations within that tract of land known under the appellation of New England; and to the end we may be truly informed of the state and condition of our good subjects there, that so we may the better know how to contribute to the further improvement of their happiness and prosperity: Know ye, therefore, that we, reposing especial trust and confidence in the fidelity, wisdom, and circumspection of our trusty, welbeloved Collonel Richard Nickolls, Sr. Robert Carr, knt., George Cartright, esq., and Samuel Maverick, esq., of our special grace, certain knowledge, and mere motion, have made, ordained, and constituted, and appointed, and by these presents do make, ordain, constitute, and appoint the said Coll. Richard Nickolls, Sr. Robert Carr, George Cartright, and Samuel Maverick, our commissioners, and do hereby give and grant unto them, or any three or two of them, or the survivors of them; of whom we will that the said Coll. Richard Nickolls, during his life, shall be always one, and upon equal division of opinions to have the casting and decisive vote; in our name to visit all and every the several Colonys aforesaid, and also, full power and authority to hear and receive, and to examine and determine all complaints and appeals, in all causes and matters, as well military as criminal and civil, and proceed in all things for the providing for and settling the peace and security of the said countrey, according to their good and sound discretions, and to such instructions as they, or the survivors of them have, or shall from time to time receive from us in that behalf; and from time to time, as they shall find expedient, to certify us, or our privy council, of their actings and

proceedings touching the premises; and for the doing thereof, or any other matters or thing relating thereunto, these premises, or the enrolement thereof, shall be unto them, and every of them, a sufficient warrant and discharge, in that behalf.

In witness whereof, we have caused these our letters to be made patents. Witness ourself, at Westminister, the twenty-fifth day of April, in the sixteenth year of our reign.

RHODE ISLAND, *ss:*

The aforewritten is a true copy of a copy lodged with his honor the Governor of Rhode Island, &c.

Teste : R. WARD, *Sec'ry.*

A true copy examined.

Pr. SAMUEL TYLEY, *Clerc.*

No. 5.—Deposition of Richard Callicott, taken in 1672; also of James Taylor, taken in April, 1711.

The testimony of Richard Callicott, aged about sixty and seven, who testifieth and saith, that he being by the order of the general court to go with Goodman Woodards and Solomon Saffery, above thirty years since, to lay out the southern line of the Massachusetts, we went to the southermost part of Charles river to a pond, out of which the principal part of the river came, and so measured with a chain three miles due south, where we marked several trees, and there we staid till we had a clear horizon for observation. We observed some other places where we went, but marked no trees; but when we came to Connecticut river, the artists took again observations, having a clear horizon. And our line came directly to the place where Windsor ferry was then kept, where we had a barn on that side we were upon, and the house of one Goodman Bissell on the other side. Having thus done, according to my orders from the general court, I repaired unto Hartford, and gave the Governor notice of what I had been about, who desired me to attend himself and the magistrates the next day, which meeting of the magistrates I attended, and showed them our grant by patent, a copy whereof I carryed with me for that part of it.

Much discourse we had about it, pro and con—whereupon I told them my order from the general court was, that in case they pleased to send any artist or artists with us, we would return with them to the place where we took our first observation; but after much discourse, they were pleased to declare, that they accepted of what we had done; and further saith not.

Taken upon oath, the last of the 3d month, 1672, before
SIMON BRADSTREET, and
THOMAS DANFORTH, *Assistants.*

In the presence of—
Capt. JOHN ALLYN, and
Capt. WAYTE WINTHROP.

A true copy.
Attest: JOHN P. BIGELOW,
Sec'y of the Com'th of Mass'tts.

BOSTON, *October* 15, 1842.

BOSTON, *April* 20, 1711.

I, the underwritten, at the direction and instance of his excellency the Governor, and the gentlemen concerned in the running the line and reviewing of the bounds between this province and colony of Rhode Island, according to the line determined by Woodward and Saffrey, I find that a line west four degrees and a half southerly, is the direct course from Woodward and Saffrey's station, where they began the line, to Bissel's celler on Connecticut river, by observation by me formerly made, after the best of my skill.

JAM. TAYLOR.

A true copy.
Attest: JOHN P. BIGELOW,
Sec'y of the Com'th of Mass'tts.

BOSTON, *October* 15, 1842.

CLASS FOUR.

No. 1.—Original report of commissioners that run the north line in 1750.

COLONY OF RHODE ISLAND, &c.

To the honorable general assembly, to sit at Providence, in and for the said colony, the third Monday in March, 1750.

Whereas this honorable assembly, at their session in Newport, in and for said colony, on the first Wednesday in May last past, did, by an act of said assembly, "constitute and appoint us, the subscribers, a comittee, and invest us with full power and authority to run and settle the northern boundary line of this colony, according to the royal charter granted by King Charles the second, in the year of our Lord 1663; and also to appoint times and places when and where to meet any commissioners that were or should be appointed on the part of the province of the Massachusetts bay, to appoint a surveyor or surveyors and chainmen, and, in general, to act and do all and every matter and thing whatever, for or concerning the aforesaid settlement of said line; and that in case no commissioners on the part of said province should and did, on the first Tuesday of October, thence next after, or at any other time as should be agreed on, meet us, the said comittee, and agree to run and settle the said line as aforesaid; then, and in that case, we, or the major part of us, were thereby required to run and settle the said line ex parte, and to draw a plat of the land contained within said line, and with our report to present to this assembly."

As by said act, and his honor Gov. Green's commission for that purpose, reference thereto being had, will at large appear. By virtue

whereof, we, the said committee, do report, that on the second Tuesday of October last past, we repaired to Lieut. Pelatiah Mann's, in Wrentham, where we expected to be met by a committee on the part of the province of Massachusetts bay, agreeable to the notification of our meeting there, given by Matthew Robinson, one of our committee, to Col. John Chandler, who was then one of the committee for said province, and after waiting two daies for them, and no person appearing on the part of said province, we entered upon the execution of ours aid commission ex parte—we appointed a surveyor and chainmen, and before we attempted to run any line or lines, or make any survey, we thought it necessary to consult the charter of this colony, to find the said north boundary line whereby this government is thus bounded—"and on the north or northerly by the aforesd. south or southerly line of the Massachusetts colony or plantation"—whereby we were referred to the Massachusetts colony charter, w'ch we find thus expressed—"all that part of New England, in America, aforesaid, w'ch lies and extends between a great river there, commonly called Monomack, alias Merimack, and a certain other river there called Charles river, being in a bottom of a certain bay there, commonly called Massachusets, alias Mattachusetts, alias Massahesetts bay, and also all and singular those lands and hereditaments whatsoever, lying within the space of three English miles, on the south part of the said Charles river, or of any and every part thereof; and also all and singular the lands and hereditaments whatsoever lying and being within the space of three English miles to the southward of the southermost part of the said bay, called Massachusets, alias Mattachusets, alias Massahesets bay; and also all those lands and hereditaments whatsoever w'ch lye and be within the space of three English miles to the northward of the said river called Monomack, alias Merimack, or to the northward of any and every part thereof; and all lands and hereditaments whatsoever lying within the limits aforesaid, north and south in latitude, and in breadth and in length, and longitude, of and within all the breadth aforesaid throughout the main lands there, from the Atlantick and Western sea and ocean, on the east part, to the South sea, on the west part;" w'ch said charter having been vacated in 1684, we find that, by the new charter granted by King William and Queen Mary to the said province, there is granted "all that part of New England, in America, lying and extending from the great river, commonly called Monomack, alias Merimack, on the north part, and from three miles northward of the said river to the Atlantic or Western sea or ocean, on the south part; and all the lands and hereditaments whatsoever lying within the limits aforesaid, and extending as far as the outermost points or promontaries of land called Cape Cod and Cape Mallabar, north and south, and in latitude, breadth, and in length and longitude, of and within all the breadth and compass aforesaid, throughout the main land there, from the said Atlantick or Western sea and

ocean, on the east part towards the South seas, or westward as far as our colonies of Rhode Island, Connecticut, and the Narragansett country." And upon comparing the words of the said charters together recited as aforesaid, it appeared that the first thing necessary was to find the southermost part or parts of said Charles river, in order whereto, we surveyed the same, beginning on the twelfth day of October, anno domini 1750, a little below the bridge called the New bridge, near Partridge's house, from whence the course of said river runs northward; and so proceded upwards so far as where Hopping brook and Second Bridge river meet and form said Charles river, being at the corner of Holte's-town and Bellingham; and having accurately planned the said survey, with the various turnings and windings of the said river, we found the southermost part thereof to be about four rods to the westward of the place where Mill brook falls into said river, which is thirty-six poles south, thirty degrees west, from the said bridge called New bridge; and from the said place or turning, where Mill brook falls into said river, we measured accurately with two wooden poles, three English miles due south, which terminated upon a shrubby plain in Wrentham, where we made a monument with a heap of stones, and set up a pine stake in said heap of stones; from whence we run a due west line to where it intersects a due north line from Pautucket falls, w'ch intersection is the northeast corner of this colony, and is about fifty rods northeasterly from Robert Blake's house in Wrentham, and at the said northeast corner we erected a monument with a heap of stones at a pitch pine tree; then proceeded to run a due west line, and in the running said course we marked divers trees, and made observations of particular and notable places to know said line by, as follows: said line passed about sixty rods southward of Wrentham, west Precinct meeting-house, just touch'd the southermost part of Thompson's river, alias Second Bridge river, in Bellingham; passed about four feet to the northward of Uriah Thayer's barn, and eleven rods to the northward of William Thayer's house in Mendon, and between Thomas Taft's house and barn, and four rods southward of Ebenezer Burts' house, and crossed the farm of Nathan Rosen, near his house, about fifty rods eastward of Blackstone's river; then passed about fifteen rods northward of Samuel Read's barn; then to a remarkable pine tree, about one hundred rods to the southeast of David Draper's house in Uxbridge; and passed about fourteen rods southward of Isaac Martin's house in Douglass, and about ten rods northward of Jonathan Wheeler's house in Sutton; crossed Manchaug pond, where the brook runs out; then crossed an arm of the said pond, and passed about five rods northward of Leonard's in Douglass; then to the northwest corner, which is made by an intersection of the dividing line between Connecticut and this colony, which was continued to make said corner, where we erected a monument of stones near to a large white oak tree, which we marked.

During the whole of our proceedings as aforesaid, we made frequent observations of the variation of the compass, and made allowances accordingly; finding it generally to be about eight degrees westward.

And whereas we find, by the report made by the committee on the part of this colony that run the north line of said colony in the year 1749, that "they found a place where Charles river formed a crescent southerly, which place is known to many by the name of Popolatick pond, w'ch they took to be the southermost part of said river, from the southermost part whereof they measured three English miles south." We thought it necessary to inquire into the same, to see if the said pond was any part of said Charles river, and found, upon strict examination, that it could by no means be deemed any part thereof; for that there is a ridge or bank of sand and gravel that divides, between said pond and river, on the south side of said river, and when the stream of the river is low, said bank is almost dry, whereby the said pond is distinct from any part of said river, consequently the set off made by said committee was owing to their insufficient examination of the said pond; therefore their doings thereon were erroneous, and ought to be rejected.

And whereas it so happened that we were obliged to make several adjournments before we could get through with said line, we took special care that notice was given by the secretary of this colony to the secretary of the province of the Massachusetts bay, of each and every of our said adjournments, except the last, and of the times and places of our meeting, that we might (if possible) have a committee on the part of the province to meet us, in order to a full and satisfactory settlement of said line between the said two governments; but as no committee from said province did at any time meet us, we proceeded and run said line throughout ex parte.

And, in obedience to said act of this honorable assembly, appointing us as aforesaid, we have hereto annexed a plat of the land contained within the aforesaid line. Which said line, run as aforesaid, we find, by comparing said charters together as aforesaid, to be the true north boundary line of this colony, dividing between it and the said province of the Massachusetts bay, upon the strictest examination we could make, and of right the land on the south side thereof to belong to this colony.

All which is humbly submitted by

JONATHAN RANDALL,
RICHARD STEERE,
THOS. LAYHAM,
JOSEPH HARRISON,
M. ROBINSON.

PROVIDENCE, *March 16th*, 1750.

March 22d, 1750.

To the house of mag'sts:

GENT: Resolved that this report be accepted, and that thecommittee be still continued, and that they, or the major part of them, have liberty to make any addition to this report and plat thereto annexed.

Voted and past.

Per order: J. LYNDON, *Cler.*

A report of commis'rs in 1750.

In the house of mag'sts, March 23d, 1750. Read and concurred with.

By order: THO. WARD, *Sec'y.*

2.—Claim of Cumberland to a part of Wrentham in 1794.

"The lines with Cumberland are laid down from an actual survey done in November last, with a surveyor and an agent present from Cumberland, but there are no corners nor monuments established with Cumberland; and they claim and tax lands north of the line, and entirely deny the last survey to be the line between the towns. They pretend not to claim to any particular line, but say that is a matter to be determined by the two States; though they expect, if right is done, that they will hold two or three miles further north."

The preceding is a true copy from an original minute, or note, entered upon the corner of a map of the town of Wrentham in the possession of my office, which is stated to have been taken from a survey in 1794 and '5.

Attest: JOHN P. BIGELOW,
Secretary of the Comm'lth of Massachusetts.

Acts of General Assembly, from 1705 *to* 1825.

(Copys.)

No. 1.—Colony of Rhode Island and Providence Plantations, in general assembly, May, 1705.

"Whereas some of the freemen, inhabitants of the township of Providence, in this her majestie's colony of Rhode Island and Providence Plantations, have laid befor this assembly several weighty reasons praying that the boundary lines between this her majestie's colony, according to our charter, and her majestie's province of the Massachusetts bay might be run and fully known, ye which we conceive will be very needfull and of good consiquence to both said collonys, viz: the collony north line, running from Puttuxett falls until it meets with the south bounds of her majestie's province of sd. Massachusetts, and from thence ye line running west on the collony line, being the boundery one, that part between said collonys until it comes unto the boundary betwixt this her majestie's collony and her majestie's collony of Connecticut, and that the same may be accomplished as speedily as can be.

"Be it enacted by this present assembly and the authority thereof, and it is hereby enacted, that our secretary, Mr. Weston Clark, by

a letter, give an account hereof to his excellency Coll. Joseph Dudley, esq., governor of her majestie's province of the Massachusetts bay, &c., requesting him to lay the same before the general assembly of s'd province, said request for a speedy accomplishment.

And be it further enacted, that our said secretary is hereby further authorized and impowered to write to ye general assembly of her majestie's said province of the Massachusetts bay, to desire them to chuse and impower some persons, commissioners, to see and cause said line to be run, and that they be impowered for said service. And we, her majestie's assembly of s'd collony of Rhode Island and Providence Plantations, doe hereby order, nominate and appoint, and give full power and authority too Maj. William Hopkins, Mr. Joseph Jenkes, and Mr. Thomas Olney, commissioners in behalf of the collony, to see said line run at such time as shall be appointed by said commissioners; and that they be allowed and paid their reasonable charge out of the general treasury.

No. 2.—Colony of Rhode Island and Providence Plantations, in general assembly, February, 1707.

"Whereas Coll. Dudley, Gov'r of ye Massachusetts bay, in New England, hath signified to this collony now assembled, yt their general assembly at Boston, sitting ye 6th of November, 1706, upon the complaint of som of Mendon against som of Providence, yt upon pretence of title of lands lying within their province, and peticularly those that are signed to ye town of Mendon; and have desired him to appoint yt sertain commissioners may be sent to renew the antient line of their province, settled sixty-four years since by sworne and approved surveyors; and accordingly Nath'l Byfield and Nath'l Paine, esqs., Mr. Nath'l Blagrove, Maj. Sam'l Thacher, and Capt. John Wards, or any three of them, are appointed and impowered in answer to s'd act of general assembly in Boston, baring date as aforesaid.

Be it enacted by this assembly and ye authority hereof, and it is hereby enacted, yt commitioner shall be chosen out of our goverment to take an inspection into what s'd commitioners shall doe on yt survey; and if s'd commitioners take their departure right then to run with them, that so a peace may be continued between them and us; but if otherwise, to forwarne and forbid them, and cause them to desist, and in spetiall if they shall run their line across ye river yt is called Pautukett or Blackstone river, and so to enter on ye lands of Providence township, which they hold of or from this collony, and allso to run an north line between them and us from Pauticket falls, to meet the south line of the Massathusett. We therefore appoint and authorize Mr. Thomas Olney, Capt. Joseph Jenks, Capt. Richard Arnold, Mr. Jonathan Sprague, Major Randall Holding, and Capt. James Carder, or ye major part of them; and allso yt notis shall forthwith be sent by his honor, ye governor, to the government of Coniticot, yt they likewise may come if they

please, and see ye departure, yt so they may have no rong, as well as us.

No. 3.—Colony of Rhode Island and Providence Plantations, in general assembly, May 1707.

"Be it further enacted, that whereas there were commissioners chosen by this collony to treat with ye gentlemen of Boston about the north bounds of this collony, it is ordered yt said commissioners shall be allowed out of the general treasury forty-eight shillings money.

No. 4.—Colony of Rhode Island and Providence Plantations, in general assembly, October, 1707.

"Voted, this assembly having considered ye sircumstance of the late differance yt hath happened between ye town of Providence and ye town of Mendon, and doe well approve of the honorable governor's letter to the governor of the Masathusett; and wee judge itt expedient for this assembly to lay ye matter before the general assembly of the Masathusetts now sitting, for their concurrance with us; and yt there may be commitioners now appointed and fully impowered to treatt and settle ye same, which are, (viz:) Maj. Randall Holding, Capt. James Carder, Capt. John Eldred, Capt. Thomas Fry, and Mr. Weston Clark, or the major part of them, with such as may be appointed by the gov'nment of the Masathusett, if they see good; but if they refuse, then ye matter may be represented to our agent in England, to procure, if it can be attained, her majestie's order for ye settling the same.

No. 5.—Colony of Rhode Island and Providence Plantations, in general assembly, March, 1709.

"Voted, and it is further enacted by ye authority aforesaid, yt the committee nominated and appointed at ye assembly at Warwick, October, 1707, to run ye collony north line and easterly line between ye province of ye Masachusetts and our collony, be still continued, and are ordered to proceed on sd. work ye sixteenth of May next."

No. 6.—Colony of Rhode Island and Providence Plantations, in general assembly, May, 1709.

It is further enacted, yt whereas ye comite chosen for stating ye bounds betwixt this collony and the province of Boston, appointed to meet at Providence, on ye 1st of this instant, it is ordered, yt they shall meet ye last Monday in June next.

No. 7.—Colony of Rhode Island and Providence Plantations, in general assembly, October, 1709.

Be it further enacted by the authority aforesaid, that Capt. Jno. Eldred, Capt. James Carder, Maj. Wm. Hopkins, and Capt. Tho-

mas Fry, to run the lines are appointed, as near as they can, between our collo'y and the province, according to both there charters, and to begin to worke on the second Tuesday of November; and Majr. Joseph Jenks, and Mr. Jonathan Sprague, to be assistances to said persons, for advice, &c., and runn the north line from Pautuckett falls to the south line of said province.

No. 8.—Colony of Rhode Island and Providence Plantations, in general assembly, February, 1710.

Whereas, there hath been several committees appointed, by the authority of this collony, to meet with such of the province of Massachusetts bay, as should be by them appointed, for the stating and settling of the lines of jurisdiction, according to each of their charters; and there being appointed, by this collony, several meetings upon that head, which hath proved to noe effect, that when meett the gentllmen of the province appointed, having noe full commission to compleat the premises, which hath proved a considerable charge to the collony, and our endeavours frustrated; but some of our last committee, by order, runn said lines, which this assembly judges to be according to our charter; yett this assembly, being desirous to have a unanimous agreement for the stating of the same, have appointed and impowered the persons above mentioned in this actt, at Warwick; and this assembly doe desire, and fully impower our honorable governor to signify the same to the general assembly of said province, that they will appoint persons, fully commissionated, for the statering said lines, and appoint the time of meeting, and if our propositions be refused by said assembly of the province, then to proceed as may be thought best by the assembly of this collony.

No. 9.—Collony of Rhode Island and Providence Plantations, in general assembly, July, 1710.

Whereas, this assembly has been credibly informed, that his excellency Col. Dudley has declared, that if Maj. Joseph Jenks was impowered thereto, he doubted not but that they two should settle the misunderstanding about the lines of partition between his and this government. It is therefore enacted by the authority aforesaid, that the said Maj. Joseph Jenks, shall be hereby amply impowered to treat with his excellency Col. Dudley, and effectually to settle ye misunderstanding about the bounds of this collony, from Patucket falls on the north and west lines of partition, between that province and this collony, which so long has been contended; always, provided, it be accommodated in six months from the sitting of this assembly, and his hon'r the gov'r by the first opportunity, to inform his excellency of this act.

No. 10.—Colony of Rhode Island and Providence Plantations, in general assembly, October, 1710.

And be it further enacted, yt whereas Maj. Joseph Jenks being commissionated to treat with Gov'r Dudley, consearning ye settling

ye bounds between ye province of ye Massachusetts and this government, yt in case Gov'r Dudley and himself should not agree so as to issue ye matter, then Maj. Jenks is hereby impowered and authorised to offer and conclude on such other terms as he may judge most proper, for ye interest of ye collony in ye ending and setling said controversy.

No. 11.—"Province of the Massachusetts bay, in New England."

Agreement of the partition line betwixt the Massachusetts, and colony of Rhode Island.

Anno Regni Reginæ, anno nono.

Roxbury, *January 19th*, 1710—11.

"At a meeting of the persons underwritten, respectively appointed and impowered by the government of her majesty's province of the Masachusetts bay on the one part, and the government of her majesty's colony of Rhode Island and Providence Plantations, in New England aforesaid, of the other part, as will appear by the votes and orders of the general assemblys of each of the said governments, of record in their several books."

"Having fully debated, and duly considered the challenges on both sides, depending upon the several charters and letters patent relating to the partition line betwixt the said respective governments, and being desirous to remove and take away all occasions of dispute and controversy betwixt the said governments relating thereto, and to continue and maintain the good neighborhood and correspondence which is at present betwixt her majesty's good subjects of both governments, for the honor of her majesty and the crown of Great Britain, upon whom these provinces and governments do always depend, have therefore mutually concluded and agreed in manner following, that is to say:

"That the stake set up by Nathaniel Woodward and Solomon Saffry, skilful and approved artists, in the year of our Lord one thousand six hundred and forty, and since that often renewed, in the latitude of forty-one degrees and fifty-five minutes, being three English miles distant, southward, from the southermost part of the river, called Charles river, agreeable to the letters patent for the Massachusetts province, be accompted and allowed on both sides, the commencement of the line between the Massachusetts and the colony of Rhode Island, and to be continued betwixt the said two governments in such manner, that after it has proceeded between the said two governments, it may pass over Connecticut river at or near Bissell's house, as is decyphered in the plan and tract of that line by Nathaniel Woodward and Solomon Saffry, now shown forth to us, and is remaining upon record in the Massachusetts government.

"And whereas, upon presumption, by mistake, or ignorance of that line aforesaid, the inhabitants of the town of Providence, in the colony of Rhode Island and Providence Plantation, have sur-

veyed and laid out several lotts and divisions of lands to the northward of Woodward & Saffry's line aforesaid, on the Massachusetts side, it is mutually and unanimously agreed, that there shall be and remain unto the said town of Providence, and inhabitants of the government of Rhode Island and Providence Plantations, a certain tract of land of one mile in breadth, to the northward of the said line of Woodward and Saffry, as before described and platted, beginning from the great river of Pautucket, and so to proceed on the north side of the said patent line of equal breadth, until it come to the place where Providence west line cuts the said patent line, supposed to contain five thousand acres, be the same more or less; the soil whereof shall be and remain to the town of Providence, or others, according to the disposition thereof to be made by the government of Rhode Island aforesaid. Nevertheless, to continue and remain within the jurisdiction and government of her majesty's province of the Massachusetts bay, any thing in this agreement to the contrary thereof, or seemingly so, notwithstanding; saving always, likewise, to any of the inhabitants of the Massachusetts their improvements, by building or fencing in of land, within any part of the said mile of land before expressed, to be and remain to them and their heirs, according to their grants and improvements, with this proviso, that so much and so many acres as the occupiers or improvers shall be allowed upon the several challenges, shall be added to the mile aforesaid, in some proper and convenient place, either at the side or end of said tract, so that the proprietors of the town of Providence or government of Rhode Island may not be losers thereby.

"And it is further agreed, that persons be nominated and appointed by the governor and council of each of the said governments, respectively, to attend the first good season for that end, within the space of six months from the date of these presents, to show the ancient line of Woodward and Saffry, and to raise and renew marks, stakes, and other memorials for the reviving, preserving, and continuing of the certain knowledge and remembrance thereof in perpetuum; the gentlemen to be appointed to that service by the said governor and council of the Massachusetts to give seasonable notice to the governor of Rhode Island of the time and place for attending the same, that the gentlemen to be appointed on the one part of that government may meet and join them accordingly, so that the mile of land herein granted to the inhabitants of Providence, as aforesaid, may proceed in the settlement and improvement thereof, for the benefit and advantage of both governments, and particularly to be a cover for the town of Providence against the insults of the Indian enemy.

"In witness whereof, the said parties to these presents have interchangeably set their hands and seals, the day and year first within written."

J. DUDLEY, [L. S.]

JOS. JENCKES, JR., [L. S.]

"Signed, sealed, and delivered in the presence, and with the advice and consent of us—

NATHL. PAINE,
NATHL. BLAGROVE,
SAML. THAXTER,
Of the Massachusetts.
JOHNATHAN SPRAGUE,
SAMUEL WILKINSON,
Of the colony of Rhode Island."

Copy examined p. J. Willard, secr'y. A true copy of that on file in the office of

THO. WARD, *Secr'y.*

No. 12.—Colony of Rhode Island and Providence Plantations, in general assembly, March, 1711.

Be it enacted by this assembly, and ye authority thereof, and it is hereby enacted, yt whereas Maj. Joseph Jenks and Capt. Samuel Wilkinson were commissionated and impowered by this assembly at their last sitting, November, 1710, to treat and agree with Col. Joseph Dudley about the north bounds of this collony, which being accomplished to satisfaction, the said Maj. Jenks is hereby allowed £10 and the s'd Capt. Samuel Wilkinson be allowed ye sum of £5 in money for their said service, to be paid out of ye general treasury of this collony.

And it is further enacted by the authority afores'd, yt Maj. Joseph Jenks and Mr. John Mumford, are hereby impowered to run the partission line between this collony and the Massathusets, pursuant to ye article made for that purpose, dated January 19th, 1710, always conforming to such necessary instructions as they, from time to time, shall receive from his hon'r the gov'r, who is hereby fully impowered to grant ye same, and when return is made of the proceeding ye s'd Maj. Jenks and Mr. John Mumford, to be paid for their so doing out of ye gen'l treasury of this collony.

No. 13.—Colony of Rhode Island and Providence Plantations, in general assembly, May, 1711

Whereas, there is a petetion of severall of the inhabitants of that part of the collony of Rhode Island which lyeth on the north side of Patucket river, in the jurisdiction of this collony, that they may be supported in the rights and property in said jurisdiction. The assembly having taken the same into their serious consideration, have thought fit, and do hereby enact, that the hon'r. governor, or those whom he shall apoynt in the name and behalf of this government, shall grant forth a prohibition that none shall presume to execise any jurisdiction of authority within the lines already runn, except it be the authority of this collony.

And it is further enacted, by the authority aforesaid, that that part which the petitioners petition for, shall be under the jurisdic-

tion of the town of Providence, and the authority of said town shall take care that no encroachment be made by any other province or collony upon that which is in the jurisdiction of this collony.

No. 14.—Colony of Rhode Island and Providence Plantations, in general assembly, May, 1716.

Whereas, there hath been a vote, by the great and gen'l court or assembly, held at Boston, upon Monday, May the 25th, 1715, now communicated to this assembly, by which wee are informed, by ye s'd assembly of the Massachusetts bay, have appointed a committee, on the part of that province, for the running of the line between s'd province and this government, according to the agreement made at Roxbury, January ye 19th, 1710, by commissioners for both governments then met. This assembly, taking the matter into their serious consideration, and judgeing it to be a matter of very great consequence to both governments to have their bounds truly and certainly settled, according to said agreement, do therefore nominate, choose, and appoint Joseph Jenks, esq., deputy gov'r, Maj. Randall Holden, Maj. Thomas Ffry, Capt. Samuel Wilkinson, and Mr. John Mumford, to be a committee on the part of this collony, hereby delegating unto them, or the maj'r part of them, full power to meet and joyn with the afores'd committee for the province of Massachusetts bay, with them to run the s'd line, and finally to settle the bounds between the said two goverments, according to the above mentioned agreement; and upon the refusal or neglect of the committee, for the province of the Massachusetts bay, in joyning with the committee for this government to proceed as aforesaid, then the s'd committee for this government are directed and empowered to proceed, and fully to finish the said line, and make return to this assembly at their next sessions of their proceedings herein. And that a copy of this act shall be full commissions to empower the s'd committee to run the said line, and that they be paid six shillings per diem each, for every day's services in s'd premises, and that their expence be paid out of the gen'l treasury.

No. 15.—Colony of Rhode Island and Providence Plantations, in general assembly, May, 1717.

Whereas, Joseph Jenks, esq., dept. gov'r, Maj. Randall Houlden, Maj. Thomas Fry, Capt. Samuel Wilkinson, and Mr. John Mumford, were, at a gen'l court of assembly of this collony, held at Newport, the first Wednesday of May, 1716, nominated and appointed a committee, on the part of this collony, to run and settle the dividing line between this collony and the Massachusetts bay; and this assembly, reposing especial faith and trust in the s'd committee, in their negotiating and sett'ing s'd line; therefore, it is hereby enacted by this assembly, that they, the s'd Joseph Jenks,

Randal Houlden, Thomas Fry, Samuel Wilkinson, and John Mumford be, and they are hereby, are continued, a committee to perform, do, and finish s'd service, and they are hereby fully impowered and authorised to proceed on, settle, and finish, with the Massachusets commissioners, and if they refuse or neglect, then without them,) the dividing line between the said collonys, according to the agreement made at Roxbury, January the 19th, 1710.

No. 16.—At a general assembly of his majesty's colony of Rhode Island and Providence Plantations, held at Newport, by adjournment the 17th day of June, in the fourth year of his majesty's reign, annoy dmi. 1718.

"Whereas, the committee appointed and impowered by the general assembly of this colony, at their sessions on the first Wednesday of May, 1717, to perfect and settle the line between the said colony and this province of the Massachusetts bay, were bound up or restricted to an agreement made at Roxbury, between Col. Dudley and Maj. Jenckes, &c., so as the matter in difference between the two colonies, as to the stating and settling the said line, hath been retarded to the considerable charge of the colony: This assembly taking the premises under their consideration, do hereby enact, constitute, and appoint Maj. Joseph Jenckes, Maj. Randal Holding, Maj. Thomas Fry, Captain Samuel Wilkinson, esquires, and Mr. John Mumford, surveyor, a committee to treat and agree with such gentlemen as are or may be appointed and commissionated, with full power by the general assembly of the province of the Massachusetts bay aforesaid, for the final settling and stating the aforesaid line between the said colonys, hereby giving and granting unto the aforesaid Maj. Joseph Jenckes, Maj. Randal Holding, Maj. Thomas Fry, Capt. Samuel Wilkinson, and Mr. John Mumford, or the major part of them, our full power and authority to agree and settle the aforesaid line between the said colonies in the best manner they can, as near agreeable to our royal charter as in honor they can compromise the same; and what the said committee, or the major part of them, shall agree to and confirm, under their hands and seals indented, shall be allowed and confirmed to be the stated and dividing line between the said colonys forever thereafter; but in case it shall so happen that the said committees, through any misunderstanding or otherwise, cannot or do not agree to settle and confirm the said dividing line upon honorable terms, then and in that case only, this assembly do authorise and impower the aforesaid committee, or the major part of them, to run and mark out the said dividing line as near agreeable to the words of our charter as may be, and to plat the same and make return thereof to this or the next succeeding assembly after they have accomplished the same, any clause or clauses of acts to the contrary notwithstanding."

No. 17.

"NEW ENGLAND, *ss*:

REHOBOTH, *in the county of Bristol, October the 22d*, 1718.

"At a meeting of us, whose names are underwritten, being the major part of the committee appointed and impowered by the governments of the province of the Massachusetts bay, and the colony of Rhode Island and Providence Plantations, as will appear by the several votes and orders of the general assemblys of both the said governments, upon record in their respective books for the settling the east and west line between the said governments, (viz:) the south bounds of the said province, and the north bounds of the said colony, which may issue all controversys between the said governments and their respective inhabitants who are now in a very good neighborhood, the keeping of which will be for the honor of his majesty, the crown of Great Britain, on whom the said governments depend, have made this indented agreement following, (viz:) that the stake set up by Nathaniel Woodward and Solomon Saffrey, in the year one thousand six hundred and forty-two, upon Wrentham plain, be the station or commencement to begin the line which shall divide between the two governments aforesaid, from which said stake the dividing line shall run, so as it may (at Connecticut river,) be two miles and a half to the southward of a due west line, allowing the variation of the compass to be nine degrees, which said line shall forever be, and remain to be, the dividing line and boundary between the said governments, any former difference, controversy, claim, demand, or challenge whatsoever.

(Signed,) NATH'L PAINE, [L. S.]
JOSEPH JENEKES, [L. S.]
NATH'L BLAGROVE, [L. S.]
RANDAL HOULDEN, [L. S.]
SAM'L THAXTER, [L. S.]
SAM'L WILKINSON, [L. S.]
THOMAS FRY. [L. S.]"

No. 18.—Colony of Rhode Island and Providence Plantations, in general assembly, August, 1748.

Whereas the commissioners that were appointed to run the dividing line between the province of the Massachusetts bay and this collony, did not go through that work in every part thereof; whereupon, it is voted and enacted by the assembly, that Daniel Jencks, Henry Harris, and Stephen Hopkins, esqr's., be and they or the major part of them are hereby appointed commissioners to finish the running said line in manner following, viz: beginning at the monument in the northeast corner of the colony set up by the former commissioners where they left off; and from thence to run

westerly to Connecticut line, agreeable to the charter of this colony, and that they meet the third Tuesday of October next, at twelve o'clock, at Maxes, in Attleborough, in order to begin said work.

And it is further voted and enacted, that his honor the governor write to his excellency the governor of the Massachusetts, informing him of this resolution, and to request that commissioners may be appointed on the part of the province, to join with the commissioners of the colony, in order to perform the business aforesaid.

No. 19.—Colony of Rhode Island and Providence Plantations, in general assembly, October, 1748.

It is voted and resolved, that Daniel Jenks, Henry Harris and Stephen Hopkins, esqrs., be, and they, or the major part of them, are hereby appointed commissioners to run the northern boundary line of the colony, from the stake set up by Nathaniel Woodward and Solomon Saffrey, in the year 1642, upon Wrentham plain, westerly, so as it may (at Connecticut river) be two miles and a half to the southward of a west line, and that said line be run clear through to said Connecticut river, according to an agreement made between the commissioners of the province of the Massachusetts bay and this colony, October the 22d, 1718, and that they meet, the first Monday in April next, at Pelatiah Mans, in Wrentham, in order to begin said work; and that his honor the governor write to his excellency the governor of Massachusetts bay, informing him of this resolution, and to request that commissioners be appointed on the part of that government to join with our commissioners to perform the business aforesaid.

No. 20.—Colony of Rhode Island and Providence Plantations, in general assembly, February, 1749.

Whereas Jonathan Randall, Thomas Lapham and Richard Steere, esqrs., were, by the general assembly of the colony, at their session in Newport, the third Monday of August last, appointed a committee to run the northern boundary line of this colony according to the charter, &c.; and the gentlemen aforenamed having gone through that work, made the following report of their conduct:

To the honorable general assembly, sitting at South Kingston, in and for the colony of Rhode Island, on the last Tuesday of February, anno dom. 1749.

In pursuance of a commission to us given, for running the northern boundary line of this colony according to charter, &c., the commission bearing date September the 25th, 1749, we did seasonably inform the secretary of this colony that we had appointed to meet at Man's, in Wrentham, on the ninth day of October next following, when we would meet with a committee of the province, if any should be appointed, and proceed on the business aforemen-

tioned. And we did accordingly meet on the said ninth day of October, at said Man's, together with Henry Harris, esq., surveyor, and Israel Wilkinson and Christopher Waterman, chairmen, ready to proceed on the business; but no committee from the province appearing, we postponed the business intended till the thirtieth of said October, when we met again, and, no person appearing on the part of the province, we did then effect the business met on, concerning which we do report as followeth: That we, not being able to find any stake or other monument which we could imagine set up by Woodward and Saffrey, but knowing that the place thereof was described in the agreement mentioned in our commission by certain invariable marks, we did proceed as followeth, viz: We found a place where Charles river formed a large current southerly, which place is known to many by the name of Poppotatish pond, which we took to be the southernmost part of said river; from the southernmost part of which we measured three English miles south; which three English miles did terminate upon a plain in a township called Wrentham, about a quarter of a mile northeasterly from the dwelling-house of Thomas Harris, as also about a quarter of a mile southeasterly from the house of Robert Blake, where we marked a pine tree and erected a monument of stones, and found the same to be in latitude 42 deg. 8 min. north, which we made for the northeast bound of this colony. And we do further report, that from said tree we did proceed to run the northern boundary line of this colony on a west course, with a variation of eight degrees and a half, as the west variation from the magnetic needle. In the course of which running, we did mark many trees. Said line passing over the southernmost part of certain pond called Manshang pond, and did terminate about thirty rods eastward of a small pond called Grassy pond, at a black oak tree which we marked, and did erect a monument of stones about it; which tree we marked for the northwestern bounds of this colony, it being about twenty-two miles from said pine tree to said black oak.

Reported and humbly submitted by

JONATHAN RANDALL,
RICHARD STEERE,
THOMAS LAPHAM.

PROVIDENCE, *Jan.* 22, 1749.

And now, this assembly having taken the said report into consideration, do vote and resolve, and it is hereby voted and resolved, that the said report be accepted. Whereas this assembly, at their session in Newport, on the third Monday of August last, appointed commissioners to run the northern boundary line of this colony, with directions that if commissioners should not be appointed on the part of the province of the Massachusetts bay to join with them therein, they should proceed to run said line ex parte. As no commissioners were appointed by the province in season, the

gentlemen appointed by the colony run said line ex parte, and made report thereof to this assembly, which hath been accepted. But nevertheless, upon advice from the province that they have appointed commissioners since our committee run the line as aforesaid, this assembly do vote and resolve, and it is hereby voted and resolved, that Jonathan Randall, Richard Steere and Thomas Lapham, esqrs., and Capt. Joseph Harrison, or the major part of them, be, and they are hereby, appointed commissioners, and fully impowered to join with the commissioners of the province of the Massachusetts bay at Pelatiah Man's, in Wrentham, the second Tuesday of April next, to run or perambulate the northern boundary line of this colony, according to charter, from the stake set up by Nathaniel Woodward and Solomon Satfory, in the year 1642, pursuant to an agreement made between the commissioner of this colony and one of and for the province of the Massachusetts bay, January the 19th, in the year 1710–'11, with full power to appoint a surveyor or surveyors and chainmen. And it is also voted and resolved, that the gentlemen on the part of this colony be commissioned, for the end and purpose aforesaid, by his honor the governor.

No. 21.—Colony of Rhode Island and Providence Plantations, in general assembly, 1749, February.

His honor the governor is hereby requested to write to the government of the Massachusetts, and inform them this assembly have appointed a committee to meet and join the gentlemen appointed by the province for running the northern boundary line of the colony. His honor is also desired to request of the province, that all taxes assessed, or that shall be assessed, on persons inhabiting any lands to the southward of the line lately run by our commissioners be not collected or levied till the dividing line be run and mutually settled, his majesty having given such directions since the controversy arose between the two governments respecting their boundaries.

No. 22.—Colony of Rhode Island and Providence Plantations, in general assembly, August, 1749.

Whereas James Mussey, of Mendon, represented to this assembly, that at the session thereof in August and October, 1748, Daniel Jenks, Henry Harris, and Stephen Hopkins, esqs., were appointed commissioners; they, or the major part of them, to run the northern boundary line of this colony, from the stake set up by Nathaniel Woodward and Solomon Saffrey, in the year 1642, as by said acts may appear; but, as the said commissioners have hitherto neglected to perform said work, according to the intent of said acts, the aforesaid James Mussey, and others, who are now under the jurisdiction and government of the Province of the Massachusetts bay, (as they apprehend, wrongfully,) prayed that this assembly would,

at their present session, be pleased to appoint three or more such gentlemen commissioners, to run the northern boundary line of this colony according to charter, who will undertake said business and go through with it, according to an agreement made between the commissioners of this colony and one of and for the said province, January 19th, 1710–'11, that they may be under the jurisdiction and government of this colony, as they think by charter they ought: On consideration whereof, it is voted and resolved, that the aforesaid petition be, and hereby is granted; and that Jonathan Randal, Thomas Lapham, and Richard Steere, esqs., be, and they, or the major part of them, are hereby constituted a committee to run the above mentioned line; and they, also, are fully impowered to appoint a surveyor or surveyors, and chainmen, and to appoint time and place to begin said work; and that the secretary acquaint the province of the Massachusetts bay of this act being past, and to request them to appoint a committee to join with ours in running said line; and that, if none be appointed by said province, that our commissioners proceed and run said line ex parte.

No. 23.—Colony of Rhode Island and Providence Plantations, in general assembly, March, 1750–'1.

It is voted and resolved, That George Wanton and Peter Bouvs, esqrs., together with Messrs. Joseph Harrison and Matthew Robinson, be, and they, or the major part of them, are hereby appointed a committee to make the draught of a letter respecting the northern boundry line of this colony, to the province of the Massachusetts bay, and present the same to this assembly at their next session.

No. 24.—Colony of Rhode Island and Providence Plantations, in general assembly, May, 1750.

Whereas, the northern boundry line of this colony hath never yet been settled according to the royal charter; and whereas, divers persons have made application to this assembly, and have set forth their just right to be under the jurisdiction of this government, as dwelling within the bounds thereof; and that the province of the Massachusetts bay have, and do unjustly exercise jurisdiction over them.

In order, therefore, to have said line rightly run and settled, and to prevent any further disputes thereupon between the said province and this colony, be it enacted by the general assembly, and by the authority thereof it is enacted, that, as soon as may be, the northern boundry line of this colony shall be run and settled, according to the royal charter granted by King Charles the Second, in the year of our Lord one thousand six hundred and sixty-three.

Be it also enacted, that, to the end the same may be perfected and completed, Jonathan Randal, Richard Steere, and Thomas Lapham, esqsr., and Capt. Joseph Harrison, and Mr. Matthew Ro-

binson, are hereby appointed commissioners; and they, or the major part of them, are fully authorized and impowered to run ands ettle said line, according to the royal charter aforesaid, as near as may be; and that they the said commissioners be commissionated by his honor the Governor; and that the said commissioners, or the major part of them, are fully authorized and impowered to appoint time and places, when or where to meet any commissioners that are or shall be appointed on the part of said province. And the said Jonathan Randal, Richard Steere, Thomas Lapham, Joseph Harrison, and Matthew Robinson, or the major part of them, are hereby fully authorized and impowered to appoint a surveyor or surveyors, and chainmen, and in general to act and do all and every other matter and thing whatever, for or concerning the aforesaid settlement of s'd line; and that in case no commissioners on the part of said province shall and do, on the first Tuesday in October next, or at any other time, as shall be agreed on, meet the said commissioners for this colony, and agree to run and settle said line as aforesaid, then, and in that case, the said commissioners on the part of this colony, or the major part of them, shall, and are hereby required to proceed to the running and settling said line ex parte.

Be it also enacted, that the secretary of this colony send a copy of this act to the secretary of the province of the Massachusetts bay, withal desiring that the said province would suspend all assessments upon the people and inhabitants included within this colony by the line already run by Jonathan Randal, Thomas Lapham, and Richard Steeres, esqrs., as by their return made in January, 1749, as was directed from them to the said province, relating to the eastern bondry of this colony.

Be it also enacted, that a plat of the land contained within said line, so to be run as aforesaid, be drawn up; and that the said commissioners on the part of this colony, or the major part of them, do make report to the general assembly of their doings in the premises, and present said plat at the same time; any laws, orders, customs, agreement or agreements, to the contrary hereof in any wise notwithstanding.

It is voted and resolved, that his honor the governor be, and he is hereby, desired to write, as soon as may be, unto the government of Connecticut, and request their assistance in settling the northern boundry line of this colony, and send with his letter a copy of this act past by this assembly, at their present session, for appointing commissioners to run and settle said boundary line.

No. 25.—Colony of Rhode Island and Providence Plantations, in general assembly, August, 1750.

This assembly having considered the subject-matter of the petition of divers persons, inhabitants on the land claimed by this colony from the province of the Massachusetts bay, and their circumstances, do order, that the secretary of this colony write a let-

ter to the secretary of said province, to be laid before the general court, representing that this assembly has had certain information that a considerable number of those persons, inhabiting on the said disputed land, are apprehended and prosecuted, at Worcester court of sessions, as rioters, occasioned by some indiscreet proceedings of some officers in the colony, which as they were done in the recess of this assembly, so they were begun and carried on without the knowledge and privity of this court; and that all these things have happened since the last letter to said province; therefore desire that, as the general court of said province has always, in all their letters to this colony since this dispute has subsisted, shown a disposition to have the said northern boundary line between us run and settled in the most amicable way possible, so, on our part, that it is our hearty desire every thing should be done to cultivate that good harmony and friendship that ought to subsist among neighbors, and that those poor people, who are settled on the said disputed land, may not be made a sacrifice to the resentment of that province, for being misled by any inconsiderate officers of this colony, since this assembly have reason to believe that the persons so prosecuted had no riotous intent to disturb the peace of the government; therefore this assembly desires yt the general court of said province would give orders to the judges of said court at Worcester to suspend any further prosecutions against said men till the said matter of said line shall be issued, or that the secretary write something to the like purpose, and to desire them also to suspend the levying the taxes from said people. Also his honor, the governor, is desired to write, by the first ship, to the agent of this colony in London, directing him to represent to his majesty the circumstances of said people, and the rigorous demands that are made on them for taxes, &c., in order to obtain from his majesty, in council, an order to said province to suspend the levying any more taxes, or using any violent measures with said people, till the said northern line shall be finally settled and established.

No. 26.—Colony of Rhode Island and Providence Plantations, in general assembly, June, 1751.

It is voted and resolved, that Stephen Hopkins, esq., Capt. Joseph Harrison and Mr. Matthew Robinson be, and they are hereby, appointed a committee to examine into all the circumstances and matters of fact relating to the northern boundary line of this colony, with full power to procure all such evidences, records and papers as may be thereunto necessary, and to correspond and join with the colony of Connecticut, or a committee by them appointed, if it be found most expedient in the prosecution of that affair; and, upon the whole, to prepare as complete a state of the case as they are able, and to lay the same before this assembly at their next session, or as soon as the same can conveniently be done.

No. 27.—Colony of Rhode Island and Providence Plantations, in general assembly, February, 1752.

Whereas the general assembly of this colony, at their session in June last, appointed Stephen Hopkins, esqr., Capt. Joseph Harrison, and Mr. Matthew Robinson, a committee to examine into all the circumstances and other matters of fact relating to the northern boundary line of this colony, with full power to procure all such evidences, records and papers as may be thereunto necessary, and to correspond and join with the colony of Connecticut, or a committee by them appointed (if it be found most expedient) in the prosecuting of that affair; and, upon the whole, to prepare as complete a state of the case as they are able, and to lay the same before the assembly as soon as can conveniently be done. And the business remaining still imperpetrated, this assembly do vote and resolve, and it is voted and resolved, that Thomas Arnold, esqr., be, and he is hereby, added to said committee, and that they, or any two of them, proceed on the affair, and complete it as soon as the same can be well done, and make report of their doings to this assembly at their next session.

No. 28.—Colony of Rhode Island, &c., in general assembly, September session, 1769.

Whereas Mr. Moses Brown, one of the deputies of the town of Providence, made the following motion at this assembly, viz:

Moses Brown moves to the honorable general assembly, that a committee be appointed to collect the papers respecting the northern line of this colony, and procure such evidences as they may think proper, in order to give the assembly the necessary information respecting said line, to enable them to form a judgment whether it be necessary to pursue the further examination and prosecution of the same; and as an inducement to this pursuit, he would observe, that a committee hath been formerly appointed, who run the line and made report, which now lies in the secretary's office. That, from the best information, there may be easily added to the colony a very considerable tract of land, the inhabitants whereof are very fond of being subjects of this government, which they verily think hath a legal right to govern them. That as they expected that this government long ago would stand by them, they openly declared for their interest in this colony. That Connecticut colony hath been heretofore invited to join with this colony in pursuing our claim upon the Massachusetts bay, which hath encroached very largely on this colony; and as the line of the colony of Connecticut begins where ours ends, that colony depends, and must depend, on our right settlement of that line to know their own boundary on the province. And surely no body will say but that our line next to the province ought to be settled, and it is high time it was done, that the inhabitants on those lands may be governed by their proper colony, and not be harrassed with taxes, &c., in a province

that they have the strongest reason to think hath no right to govern them.

Wherefore the said Moses heartily moves, that this colony would assert their right to those lands, and make proper inquiry, and appoint a proper committee for that purpose; and that Connecticut may once more be invited to join and assist us in doing themselves and us right.

And the premises being duly considered, it is voted and resolved, that the Hon. Joseph Wanton, jun'r, esq., Jonathan Randall, esq., Mr. Moses Brown, Matthew Robinson, esq., and the attorney general, be, and they, or the major part of them, are hereby appointed a committee to examine into the subject matter of the aforegoing motion; and that they make report to this assembly at the next session.

No. 29.—Colony of Rhode Island, &c., in general assembly, October session, 1769.

Whereas Matthew Robinson, esq., Mr. Moses Brown, Joseph Wanton, jun'r, esq., and Oliver Arnold, esq., presented unto this assembly the following report, to wit:

To the honorable general assembly now sitting in South Kingstown:

Whereas, at the last session of assembly at East Greenwich, we, together with Jonathan Randall, esq., were appointed a committee to examine into the state of the claim of this colony upon the province of the Massachusetts bay, respecting the north line of this colony, bordering on said province, and to make report thereof to this assembly; in obedience thereunto, we do report: That we have examined into said claim, and do find that there was a committee some years ago appointed to run said line, agreeable to our charter and that of the province of the Massachusetts bay, who, in the year 1750, run said line accordingly, and made report thereof to the general assembly at Providence the same year, as by the plat and report thereof *to the general assembly at Providence the same year, as by the plat and report thereof* on file, with the state of our title or claim, in the secretary's office, and divers depositions to support the same, reference thereunto being had, may at large appear. That thereby it is clear, there is a tract of land near as large as one-fifth part of he land now possessed by this colony, which is unjustly under the jurisdiction and government of thep rovince of the Massachusetts bay, and which of right appertains to this colony. That this colony had invited the colony of Connecticut into consultation with our committee, the true line of that colony beginning where ours ends. That it was through inattention dropped, and our line not yet being settled, theirs cannot be; wherefore it seems best to invite the colony of Connecticut, whose interest is connected with ours, to join a committee of this colony, to consult what is or shall be thought best to be done to settle said line truly; which seems

necessary to be done, to stop the uneasiness of the inhabitants on those lands, to secure them in peace, and to finish this dispute rightly as soon as may be.

This is submitted by

MATTHEW ROBINSON,
MOSES BROWN,
JOSEPH WANTON, JUN.,
OLIVER ARNOLD.

And the foregoing report being duly considered, it is voted and resolved, that the same be, and hereby is, accepted.

No. 30.—Colony of Rhode Island, &c., in general assembly, October, 1769.

It is voted and resolved, that Mr. Moses Brown have liberty to receive the plat of the northern boundary line of the colony, and the papers relative thereto, to take copies thereof—he promising to return the same to this assembly at the next session.

No. 31.—Colony of Rhode Island, &c., in general assembly, February session, 1770.

Whereas Mr. Moses Brown presented the following memorial to this assembly, to wit:

To the honorable the general assembly.

GENTLEMEN: Agreeable to the vote of this assembly at their last session, I received and have taken copies of the plats and reports respecting the northern boundary line of this colony. By which papers it appears that the colony had made application, in conjunction with the colony of Connecticut, to Mr. Partridge, then agent for both colonies, to pursue the settlement of the said line. And it appears that this colony, in the month of April, 1753, formed a petition to his majesty on this subject. Whether it was forwarded or not, or what further was done, does not appear by the papers I have yet been able to collect, but am informed by one of the commissioners, who conferred with the commissioners of the colony of Connecticut upon this matter, in April, 1752, that the two colonies agreed to prosecute the case jointly; and as this government had expended a considerable sum in running the line, procuring evidence, and fitting the case to go home, Connecticut was to pursue it at home, until they had laid out the same sum that we had; after which, the expence, if any more should be necessary, was to be paid by both governments equally.

This being the case, and it appearing clear to me that the colony had a just right to a strip of four miles and fifty-six rods, the width of the colony being about twenty-two miles, I propose and desire this assembly to appoint some proper person or persons, to make application to the Governor or secretary of the colony of Connecticut, and procure information how the case was left, and, if they are unable to inform us, to write to the agent of this colony,

who, about the time this matter was in agitation in England, lived with Mr. Partridge, and without doubt hath the papers respecting this matter that belong to the colony, and request him to examine the papers, and inform us of the circumstances this affair was under at the commencement of the late war; which I suppose was the occasion of its not being determined.

As Joseph Harrison, esq., one of this colony's committee to run the line, and Col. Lyman, who was one of the Connecticut committee, are both in London, and are acquainted with all the circumstances of this case, I apprehend a more favorable opportunity for the colony to get information in this matter could not happen.

I am obliged to the general assembly for their confidence in depositing the papers in my hands, and herewith return them.

I am, gentlemen, your most humble servant,

MOSES BROWN.

On consideration whereof, it is voted and resolved, That the said memorial be accepted. That Mr. Moses Brown be, and he is hereby, appointed to make the inquiry therein mentioned, and when he shall have obtained the best information he can procure, that he make report thereon to the General Assembly.

No. 32.—Colony of Rhode Island, &c., in general assembly, May, 1771.

Whereas the secretary presented unto this assembly the following draught of a letter of agency to Henry Marchant, esq., to wit:

By the honorable Joseph Wanton, esq., governor, captain general and commander-in-chief of and over the English colony of Rhode Island and Providence Plantations, in New England, in America.

To all unto whom these presents shall come, greeting:

Whereas, the governor and company of the colony aforesaid, in general assembly convened, at Newport, in the said colony, on the first Wednesday in this instant May, did pass an act, choosing and appointing Henry Marchant, of Newport aforesaid, esq., jointly with Joseph Sherwood, of the city of London, in the kingdom of Great Britain, esqr., agent and attorney for the said governor and company in Great Britain aforesaid, with full power and authority, with the said Joseph Sherwood, to act, transact, accomplish, and finish all matters and things whatsoever pending, or that may be pendent, in Great Britain, for or against the said governor and company, during his residence there, more especially to obtain the monies claimed by the said governor and company from the crown, for provisions, artillery, stores, &c., supplied for his majesty's service, for the expedition against Crown Point, in the year one thousand seven hundred and fifty-six, or upon any other account whatever; and requested me, for the purposes aforesaid, to make and execute a full and ample letter of agency and attorney to him, the

said Henry Marchant, under my hand and the seal of the said colony.

Now, know ye, that I, the Governor above mentioned, by force and virtue of the afore recited act, in behalf of the said Governor and company, have constituted, ordained, and appointed, and by these presents do constitute, ordain, and appoint him, the said Henry Marchant, during his residence in Great Britain, jointly with the said Joseph Sherwood, absolute and lawful agent and attorney for the said Governor and company in Great Britain, and in their names and stead to appear before his majesty in council, and either or both houses of Parliament, or any court or courts, judge or judges, minister or ministers of justice, as shall have jurisdiction, cognizance, or power to hear, adjudge, determine, sentence, or decree, in or upon any cause or causes, moved or pending, or to be moved or pendant in Great Britain, by, for, or against the said Governor and company, whether by memorial, petition, claim, demand, appeal, complaint, or otherwise; and there, in the name, stead, and behalf of the said Governor and company, jointly with the said Joseph Sherwood, to say, do, act, transact, accomplish, and finish, all and every matter and matters, thing and things, needful, requisite, and expedient, for obtaining right and justice, in behalf of the said Governor and company; more especially, by petition, memorial, or by any other lawful ways and means whatsoever, in their name and stead, and to their use, to obtain and receive all such sums of money, as the said Governor and company claim from the Crown, for provisions, artillery, stores, &c., supplied for his majesty's service, for the expedition against Crown Point, in the year of our Lord one thousand and seven hundred and fifty-six, or upon any other account whatsoever; and upon receipt of the same, or any part thereof, jointly with the said Joseph Sherwood, to give proper acquittances and lawful discharges.

And I do hereby, for the said Governor and company, covenant, promise, and engage, to ratify and confirm, and to hold for ratified and confirmed, all and whatsoever the said Henry Marchant, jointly with the said Joseph Sherwood, shall lawfully do, or cause to be done, in or about the premises, by virtue of these presents.

In testimony whereof I have hereunto set my hand, and the seal of the said colony, at Newport aforesaid, this day of May, in the eleventh year of the reign of his most sacred majesty George the Third, by the grace of God King of Great Britain, &c., Annoq. Dom., 1771.

By his honor's command.

Which being duly considered, it is voted and resolved, that the same be, and hereby is approved; that his honor the Governor be requested to cause a fair copy thereof to be made, and authenticate the same, under his hand and the colony seal, and that it be countersigned by the secretary.

No. 33.—Colony of Rhode Island, &c., in general assembly, June session, 1771.

Committee to draw a state of the northern boundary line of this colony.

It is voted and resolved, that the Hon. Stephen Hopkins, esq., John Dexter, esq., Mr. Moses Brown, Matthew Robinson, esq., be, and they are hereby appointed a committee to draw a state of the case of the northern boundary line of this colony, and deliver the same to Henry Marchant, esq., to carry with him to Great Britain, who, in concurrence with Joseph Sherwood, esq., is to take such counsel and advice thereon as they may think proper, respecting the obtaining an order from his majesty for commissioners to settle the line, agreeable to the charters of the Massachusetts bay and this colony.

No. 34.—State of Rhode Island and Providence Plantations, in general assembly, January, 1782.

Whereas, a number of the inhabitants of the town of Wrentham, Franklin, Bellingham, Mendon, Uxbridge, and Douglass, in the Commonwealth of Massachusetts, preferred a petition, and represented unto this assembly, that they conceive themselves to be under the jurisdiction of this State, provided the southerly line of the State of Massachusetts was rightly settled; and, thereupon, prayed this assembly to procure an order of Congress for that purpose:

Whereupon, it is voted and resolved, that the said petition be received, and that the subject matter thereof be referred to the consideration of the Hon. Jabez Bowen, esq., Jonathan Arnold, esq., Welcome Arnold, esq., Mr. Joseph Brown, William Richmond, esq., James M. Varnum, esq., and Pardon Tillinghast, esq., and that they make report thereon to the next session of this assembly.

No. 35.—State of Rhode Island and Providence Plantations, in general assembly, June, 1782.

It is voted and resolved, that his excellency the Governor be requested to inform the delegates of this State, that this general assembly have duly considered the letter of the Secretary of Foreign Affairs for the United States, respecting this State's boundaries, and inform them that the claims of this State, with respect to boundaries, are confined to those which are particularly specified and described in its original charter; and that the delegates be requested to acquaint the Secretary of Foreign Affairs with this resolution, and furnish him with a copy of the charter referred to.

No. 36.—State of Rhode Island and Providence Plantations, in general assembly, May, 1791.

Whereas, difficulties and disputes have arisen respecting the boundary line between this State and the Commonwealth of Mas-

sachusetts, to prevent which in future, and to promote harmony and affection between the citizens of this State and such Commonwealth, be it enacted by this general assembly, and by the authority thereof it is enacted, that the honorable William Bradford and Jabez Bowen, esq., and Mr. Moses Brown be, and they are hereby appointed commissioners on the part of this State for ascertaining the boundary line between the same and such the said Commonwealth of Massachusetts. And the said commissioners are hereby authorised and empowered to meet such commissioners as have been appointed and vested with similar powers, for the above purpose, by the legislature of the Commonwealth of Massachusetts, and in conjunction with them to ascertain, run, and mark such boundary line, upon the principles as have heretofore been agreed upon by commissioners from Great Britain, or by the respective legislatures of the late province of Massachusetts bay, and the colony of Rhode Island and Providence Plantations, for that purpose appointed, if those principles can now be ascertained; otherwise, the commissioners, on the part of this State hereby appointed, are authorised and empowered to agree upon such principles, touching the run-rung said line, as from the best documents they can obtain, may appear to them just and reasonable; which line, when so ascertained, shall forever afterwards be considered and held to be the true and just boundary line of jurisdiction between this State and the Commonwealth aforesaid.

And be it enacted by the authority aforesaid, that such the commissioners, on the part of this State hereby appointed, be, and they are hereby authorised, to employ such surveyor and chainman as they may think proper, to assist in ascertaining the same line as aforesaid. And such commissioners, so appointed, prior to their entering into the business herein assigned them, shall receive a commission from the governor, under the seal of this State, agreeable to the powers with which they are vested in and by this act.

No. 37.

WRENTHAM, 17*th* 8*th mo.*, *called August*, 1791.

We, the commissioners appointed by the States of Massachusetts and Rhode Island and Providence Plantations, to ascertain and mark out the boundary lines between the said States, having met at Wrentham, and convened upon the several claims, do agree to begin to measure Charles river, and measure off three miles from the most southerly part, as claimed by Rhode Island, and described by a plan or draft made by Joseph Harrison, one of the commissioners who run said line in 1750; and also to run off three miles south from such waters, as the commissioners from Massachusetts may assign, as in their opinion to be the most southerly part of Charles river, making such monuments as may appear necessary; and that the same be laid before the respective States, as the bounds which, according to our several opinions, ought to divide the same,

agreeably to their respective charters; and we, being of different opinions, and therefore not able to settle the line, do also agree to recommend to the said States to submit the matter in dispute to indifferent men of the neighboring States, or to unite in an application to Congress, to settle the same agreeably to the respective charters, and the Constitution of the United States. We also further agree, to perambulate the line between the two States, and ascertain the bounds, agreeably to the determination of king and council, so far as from Bullock's point, eastward, leaving the line from Pawtucket falls to be run and settled, when the north line is settled agreeably to the within or foregoing agreement.

WERTER SPOONER,
ELISHA MAY,
DAVID COBB,
JABEZ BOWEN,
MOSES BROWN,
WILLIAM BRADFORD.

It is thereupon voted and resolved, that the said report, and the doings of the commissioners appointed to adjust the line between this State and the Commonwealth of Massachusetts, be referred to the consideration of Peleg Arnold, esq., Thomas Holden, esq., Welcome Arnold, esq., Jonathan J. Hazard, esq., Mr. John Holmes, Daniel Moury, esq., and John S. Dexter, esq., who are hereby appointed a committee for that purpose, and instructed to report to this assembly such further measures as they shall think necessary to be taken to establish the claim of this State to lands conterminous to the Commonwealth of Massachusetts.

No. 38.—State of Rhode Island and Providence Plantations, in general assembly, February, 1792.

Whereas the following report was made to this assembly, to wit:

To the general assembly of the State of Rhode Island and Providence Plantations, now holden at Providence.

Agreeably to appointment, we, your commissioners, have had several meetings with commissioners from the State of Massachusetts, and conferred on the subject of the boundary line between the two States, and entered into an agreement respecting the principles and mode of ascertaining the same, which we herewith present. In performance of which agreement, we proceeded, and ran out three miles south of Charles river, from the most southerly part or bend thereof, as appears by a draft or plat made from an actual survey of the said river, by Joseph Harrison, one of the commissioners from this State, in 1750, beginning at a place south 30° W. from Partridge's bridge, in Franklin, 36 poles, being four rods westward of a small stone bridge over Mill brook, at its junction with Charles river, which river appeared, to some of us, to be about twenty times the size of said brook. From this place,

three miles south, terminated on Robert Blake's land, about sixteen rods southward from where the said Blake informed the commissioners the tonnel of 1750 stood, and which place he showed, the stone being made into a wall near it, and the pine tree cut down. The Massachusetts commissioners then surveyed, from an island in Whiting's pond, described in the map of Joseph Harrison aforesaid, a small brook running into the said pond till it came to its head, as and for Charles river, or the most southerly part of it, the said brook being known by the name of Fisher's brook, and terminates a little N. W. of Fisher's house, in Wrentham. This brook, being a dry season when surveyed, did not appear to run above ground in some places, though the ground was swampy and wet. From this termination, at a place where an old chesnut lies fallen, the Massachusetts commissioners propose to measure off three miles, to ascertain their southern boundary, to a place where a stone monument was erected, in 1790, by Wrentham and Attleborough, at a place called the angle tree, as the boundary between the old colony of Plymouth and Massachusetts. In order to ascertain the distance which this monument lies south of the monument or line, now held to by this State and Massachusetts, a west line was run 277 rods to the line extending north of Pawtucket falls, as run in 1746. From this intersection the distance appears to be 740 rods to the present line, as the same was measured by Simon Wilkinson, by direction of the commissioners. We then proceeded to Bullock's neck, and run N. E. from thence three miles, which passed by the monument erected by the commissioners of this State in 1746, about thirty-four rods. Thence we went to Rumstick cove, and measured off three miles N. E., which terminated eight rods short of the old monument; we then run from the most northeasterly part of Bristol harbor, as far as salt grass grew, three miles N. E., which fell short of the former monument about thirty seven rods. In measuring down from Fall river, where it enters the bay, to find the 440 rods, mentioned in the decree of king and council as the spot to begin at, by going round a small bay, we came to a place where the neighbors say the commissioners of 1746 ran from, but the Massachusett's commissioners objected to this mode of measuring round the cove, or inlet, and claimed a straight line. It appeared on measuring the three miles east of this station, that it terminated westward of the former bound; but the course leading into Wattupper pond, the exact distance was not ascertained. The east line from Nannaquaquet fell short about 127 rods, and that from Church's cove fell short 168 rods of the monument, now standing and shown by the neighbors, in the several measurements on these lines; no allowance was made for the crook or sag of the chain, though several lines ran through thick swamps.

At a meeting at Providence, and conferring on the subject, the commissioners of both States concluded to report a state of the business so far as we had proceeded, not being able to agree upon any other proceeding in our appointment.

In readiness to give such further information on the subject as we may be able, and the assembly may require, we respectfully submit our report.

JABEZ BOWEN,
MOSES BROWN,
WILLIAM BRADFORD.

PROVIDENCE, 29*th*, 2*d month*, *called February*, 1792.

No. 39.—State of Rhode Island and Providence Plantations, in general assembly, October session, A. D. 1809.

Resolved, That Moses Brown, esqr., Samuel W. Bridgham, esqr., and the attorney general, be, and they are hereby, appointed commissioners to ascertain the north line and boundary of this State.

Resolved, That his excellency the governor be requested to write to his excellency the governor of Massachusetts to inform him of the appointment of said commissioners, and to request the legislature of Massachusetts to appoint commissioners on the part of said State to unite with the commissioners appointed by this State in ascertaining and settling said line.

Resolved, That the commissioners appointed by this general assembly be fully authorized and empowered to unite with the commissioners, who may be appointed by the State of Massachusetts, in ascertaining and fully settling the said north line in such way and manner as shall be mutually agreed on by said commissioners. Provided the said commissioners, who may be appointed by the State of Massachusetts, shall be fully authorized by the legislature of said State to conclude such an agreement.

A true copy.

Witness: SAMUEL EDDY, *Secry.*

No. 40.—State of Rhode Island and Providence Plantations, in general assembly, June session, A. D. 1817.

Resolved, That Moses Brown, Samuel W. Bridgham, and James Burrill, jun., esquire, be and they are hereby continued commissioners, under their appointment at October session, A. D. 1809, to ascertain the north line and boundaries of this State.

Resolved, That his excellency the governor be, and he is hereby, requested to inform his excellency the governor of Massachusetts, by letter, of the continued appointment of said commissioners, and to request the legislature of Massachusetts to appoint new, or continue the former commissioners on the part of said State, to unite with the commissioners aforesaid, appointed by this general assembly, in ascertaining and settling said line.

Resolved, That the commissioners so as aforesaid appointed and continued by this general assembly, be and they are hereby fully authorised and empowered to unite with the commissioners who are or may be appointed by the legislature of Massachusetts, in

ascertaining and fully settling the said north line and boundaries, in such way and manner as may be mutually agreed upon by said commissioners: Provided, the said commissioners who are or may be appointed by the legislature of Massachusetts, shall be fully authorised to conclude such an agreement.

Resolved, That if the legislature of Massachusetts shall neglect or refuse to appoint commissioners on their part, or if the commissioners, who are or may be appointed on the part of Massachusetts, shall neglect or refuse upon reasonable notice being given them to meet for the purpose aforesaid, or if the commissioners aforesaid on both parts shall not be able to agree in the premises, that the said commissioners appointed by this general assembly shall and may proceed ex parte to the completion of their duties aforesaid, and make report to this house as soon as may be.

Resolved, That the commissioners on the part of this State be and they are hereby authorised to draw on the general treasurer, from time to time, for all the necessary expenses of said commission, and the treasurer be and he is hereby directed to pay the same: Provided, however, that the aggregate amount thereof does not exceed the sum of two hundred dollars.

A true copy.

Witness, SAMUEL EDDY, *Sec'y.*

No. 41.—State of Rhode Island and Providence Plantations, in general assembly, October session, A. D. 1817.

Resolved, That the commissioners appointed on the part of this State to settle the northern boundary line thereof, be and they hereby are authorised and empowered to employ such surveyor or surveyors and chainmen as they may think, to aid them in carrying into effect the object of their said appointment; and also to appoint such person as they may deem suitable, to attend with and assist them in running such lines as may be directed by them, and the commissioners appointed on the part of the State of Massachusetts.

A true copy.

Witness, SAMUEL EDDY, *Sec'y.*

No. 42.—State of Rhode Island and Providence Plantations, in general assembly, May session, A. D. 1818.

Voted and resolved, That Moses Brown, James Burrill, jun., and Sam'l W. Bridgham, who have heretofore been appointed commissioners for settling the northern boundary line of this State, be requested to proceed on the duties of their appointment as soon as may be, and make report of their doings at the next October session of this assembly.

A true copy.

Witness, SAMUEL EDDY, *Sec'y.*

No. 43.—State of Rhode Island and Providence Plantations, in general assembly, October session, A. D. 1818.

The commissioners appointed by the general assembly, at October session, A. D. 1809, to ascertain the north line of this State, and to unite with the commissioners of the State of Massachusetts in settling the same, and continued in office with additional powers by various resolutions of the general assembly, respectfully report: that in the year 1811, and at several subsequent times, we have met and conferred with the commissioners of the State of Massachusetts, upon the subject of our appointment. At all these meetings we have found a disposition on the part of the gentlemen of Massachusetts to consider and discuss the points in difference with candor. The conferences have proceeded in the best possible temper, and with a sincere desire, as we believe, on both parts, to ascertain the true merits of the controversy, and to settle it if possible, upon principles of fairness and equity. Several meetings were holden at Providence, and the time employed in them was spent in conversation and argument, and in the production and consideration of the historical and documentary evidence.

In November, 1817, after a meeting at Providence, in which the case was very fully stated on both sides, and after, as we believe, the merits were fully understood, and the points of difference more exactly defined and simplified, one of us, at the request of the Massachusetts commissioners, proceeded, with one of them, to run out the line of possession and jurisdiction as it now actually exists, and of this running a plat was made by Richard Knight, esq. In the present month we met again at Wrentham, in the State of Massachusetts, when the conferences renewed, and some additional documents; but this meeting, like former ones, has failed in its object of settling the controversy, and we are under the necessity of reporting to the general assembly that we are unable to effect an adjustment of the differences with Massachusetts upon such terms as we conceive to be consistent with the rights and dignity of this State. We do not think it necessary at this time to give any particular explanation of the points in difference, or to report the evidence in support of our claim, as we are respectfully of opinion that it will not be advisable to take any further measures on the part of this State until the commissioners of Massachusetts shall have made a report to their legislature. When that report shall be made, and made, as it undoubtedly will be, in an amicable and honorable spirit of candor and conciliation, and the general court shall have expressed their opinion and intentions in regard to further measures, by compromise or otherwise, for terminating the controversy, the general assembly will be better able to determine on the course which the public interest will require them to adopt. We, however, still indulge a hope that a final settlement of this ancient controversy may yet be effected by agreement between the

two States, upon such terms as may be consistent with their mutual rights, dignity and interests.

MOSES BROWN,
SAMUEL W. BRIDGHAM,
JAMES BURRELL, Jr.

No. 44.—State of Rhode Island and Providence Plantations, in general assembly, June session, A. D. 1825.

Voted and resolved, that the honorable Thomas Buffum be, and he hereby is, appointed a commissioner to supply the vacancy in the board of commissioners heretofore appointed on the part of this State to settle and establish the north line thereof, occasioned by the death of the honorable James Burrill, jr.

[SEAL.] State of Rhode Island and Providence Plantations, secretary's office, January 9, A. D. 1843.

I, Henry Bowen, secretary of said State, and keeper of the records and the seal thereof, do certify that the papers annexed, numbered 1 to 44 inclusive, are true copies from the colony and State records or files of this office, duly examined and compared.

In testimony whereof, I have hereunto set my hand and affixed the seal of said State, at Providence, the day and year above-written.

HENRY BOWEN.

CLASS FIFTH.

Acts of Massachusetts.—No. 1.

TUESDAY, *March* 8, 1791.

An engrossed bill, entitled "An act appointing commissioners on the part of this Commonwealth for ascertaining the boundary line between this Commonwealth and the State of Rhode Island," having had two several readings, passed to be enacted.

Vol. 49, page 512.

THURSDAY, *March* 5, 1801.

Resolve appointing agents to meet such as may be appointed by the State of Rhode Island for the purpose of ascertaining the line dividing the two States.

In senate.—Whereas it appears, by a petition and representation from the town of Wrentham, that disputes and difficulties now exist respecting the boundary line between this Commonwealth and the State of Rhode Island, that the same lands and buildings, adjoining or contiguous to the north line of said State, in some instances, have been assessed and the taxes thereon collected under the authority of the respective governments, whereby animosities and disturbances between the good citizens thereof are excited, and individuals subjected to unreasonable burthens. And whereas it is

highly desirable that measures may be taken that will effect a settlement of the said boundary line in all cases where it has not heretofore been settled and established, by which means all difficulties and disputes relative thereto between the respective Governments, or any of the citizens thereof, may in future be prevented, and individuals taxed as aforesaid be relieved. And although the mode directed and pursued by an act of this Commonwealth for establishing said line, passed in the year 1791, viz: by commissioners appointed for that purpose, and which was agreed by the said State, proved in some measure abortive, and a settlement at that time was effected only in part; yet it appears to this legislature that the mode aforesaid is the most eligible way of settling similar disputes, unless circumstances are such as to render a settlement in such manner impracticable, and it is deemed expedient to make another attempt for a settlement of said dispute in the mode before directed: Therefore, resolved, that the hon. Edward H. Robbins, esq., and Nicholas Tillinghast, esq., be appointed commissioners on the part of this Commonwealth for ascertaining the boundary line between the same and the said State of Rhode Island and the said commissioners are hereby authorized and impowered to meet such commissioners as may be appointed and vested with similar powers for the above purpose by the legislature of the said State of Rhode Island, and in conjunction with them, to ascertain, run, and mark such boundary line, upon such principles, touching the running said line, as, from the best documents they can obtain, may appear to them just and reasonable; which line, when so ascertained and approved by the legislatures of the respective governments aforesaid, shall for ever afterwards be considered and held to be the true and just boundary line of jurisdiction between this Commonwealth and the aforesaid State.

Resolved, that in case of disagreement of the commissioners aforesaid, when met for the purposes aforesaid, whereby a settlement of said line may be prevented; or if said State of Rhode Island shall decline appointing commissioners to meet with the commissioners appointed by this Commonwealth, for the purpose aforesaid—that the commissioners on the part of this Commonwealth, in either case, are hereby authorized and required to ascertain and clearly describe such line as they, from the best documents they can obtain aforesaid, shall judge the most just and equitable, and as in their opinion shall have the greatest tendency to prevent further disputes as to the line of jurisdiction aforesaid, and make report to the next general court as soon as convenient.

Resolved, that said commissioners on the part of this Commonwealth, hereby appointed, be, and they hereby are, authorized to employ such surveyors and chainmen as they may think proper to assist in ascertaining the same line as aforesaid; and such commissioners, prior to their entering on the business herein assigned them, shall receive a commission from the governor under the seal of this

Commonwealth, agreeable to the powers with which they are hereby vested.

And be it further resolved, that the governor of this Commonwealth be, and hereby is, requested to transmit a copy of these resolutions to the governor of Rhode Island, that the same may be communicated to the legislature of said State, in order that measures may be taken on the part of that State to carry the same into effect.

In the house of representatives, read and concurred.

Approved by the governor.

Vol. 53, page 436 to 438.

FRIDAY, *February 2d*, 1810.

Resolve for ascertaining the boundary line between this Commonwealth and the State of Rhode Island.

The committee of both houses, to whom was committed a letter from his excellency the governor of this Commonwealth, with a communication from his excellency the governor of the State of Rhode Island, accompanied by a resolution of the general assembly of said State, appointing commissioners on their part to ascertain and settle the north line and boundaries of said State, with a request that commissioners may be appointed on the part of this Commonwealth, with similar powers—having considered the same, ask leave to report the following resolves:

Resolved, that his excellency the governor, with the advice and consent of council, be, and he hereby is, authorized and requested to nominate and appoint three suitable persons as commissioners on the part of this Commonwealth, to ascertain the boundary line between said Commonwealth and the State of Rhode Island, being the north line and boundaries of said State of Rhode Island. And said commissioners are hereby authorized and empowered to unite with the commissioners already appointed by the general assembly of the State of Rhode Island, in ascertaining and fully settling the aforesaid line in such way and manner as shall be mutually agreed on by said commissioners, and in conjunction with them to ascertain, run, and mark such boundary line through the extent aforesaid; and at the joint and equal expense of this Commonwealth and said State of Rhode Island, to erect durable monuments at such places in said line as they may judge proper and effectual to prevent future mistakes and disputes respecting the same; which line, when so ascertained, shall forever afterwards be considered and held to be the true and just boundary line of jurisdiction between this Commonwealth and the aforesaid State; and said commissioners on the part of this Commonwealth are hereby authorized and empowered to agree with the commissioners on the part of the State of Rhode Island, upon such privileges respecting the ascertaining and running said line as, from the best evidence they can obtain, may appear just and reasonable; and also to employ such surveyors and

chain-bearers as they may think proper, to assist in duly ascertaining the line aforesaid.

Be it further resolved, that there be paid out of the treasury of this Commonwealth, to said commissioners, five hundred dollars, to enable them to defray the immediate expenses of running and establishing said line; said commissioners to be accountable to the general court for the proper application of the same; and his excellency the governor is hereby requested to draw his warrant on the treasurer for the same.

Be it further resolved, that that part of a resolve which passed the fifteenth day of June, one thousand eight hundred and one, granting five hundred dollars to the commissioners appointed to ascertain, run, and settle the line between this Commonwealth and the State of Rhode Island, (the same not having been expended,) be, and the same is hereby, repealed.

In senate, read and accepted. In the house of representatives, read and concurred.

Approved by the governor.

Vol. 57, pages 185 to 187.

TUESDAY, *February 3d*, 1818.

Report of the committee on the boundary line between Rhode Island and this Commonwealth.

In senate.—The committee of both houses, to whom was referred so much of his excellency's message as relates to the boundary line between the State of Rhode Island and this Commonwealth, have had the same under consideration, and ask leave to submit the following report:

(JAMES ELLIS, *Chairman.*)

That they find the legislature of this Commonwealth, on the second of February, A. D. 1810, passed a resolve authorizing the governor of said Commonwealth to appoint commissioners to ascertain and settle the north line and boundaries of said State of Rhode Island; that, by virtue of said resolve, the governor did appoint Edward H. Robbins, Nicholas Tillinghast, and Nahum Mitchell, esqrs., (all of whom are now living,) commissioners for the purpose aforesaid; that said commissioners always have been, and now are ready, when notified by the commissioners of the State of Rhode Island, to attend to the subject of their appointment; that the commissioners of the respective States have had several meetings, which have terminated in a mutual agreement to survey the line anciently established: this survey has been in part accomplished, and will at any future time be fully completed, on notice being given by the commissioners on the part of the State of Rhode Island for that purpose.

Therefore, be it resolved, That said commissioners on the part of said commonwealth be continued, and that they be, and hereby are

vested with as ample powers for the purpose aforesaid, as are granted to the commissioners of the State of Rhode Island, with special power and authority to renew, erect, and establish a permanent monument at Woodward and Saffrey's station, (so called,) and to erect and establish such other monuments on the boundary line, and at such other places as they may judge expedient.

In the house of representatives, read and concurred.

Approved by the Governor.

(Vol. 62, pages 49, 52, 53.)

SATURDAY, *January* 22*d*, 1825.

Message from the Governor.

Gentlemen of the Senate and gentlemen of the House of Representatives:

At a request of the Governor of Rhode Island, I herewith transmit a copy of a resolution passed by the general assembly of that State, proposing the appointment of arbitrators to settle the boundary line between the north part of Rhode Island and this Commonwealth.

WILLIAM EUSTIS.

COUNCIL CHAMBER, *January* 25*th*, 1825.

(Vol. 65, pages 358, 359.)

TUESDAY, *February* 22, 1825.

Report of the committee on boundary line of Massachusetts and R. Island.

In senate:—The committee to whom was referred the communication from the Governor of Rhode Island to the Governor of this Commonwealth having attended the duties assigned them, beg leave to report as follows, viz:

That, from the examination of various documents, they are well satisfied the south boundary of Massachusetts, and the north boundary of Rhode Island, was definitely run out and settled, by commissioners appointed by the province of Massachusetts bay and the colony of Rhode Island, on the 22d day of October, A. D. 1718.

The starting point at the northeast corner of Rhode Island, from time immemorial, has been established and always acquiesced in by the respective governments. There is no disagreement in relation to that point at the present moment; the only question is, what course, from the place of departure to Connecticut river, shall be taken to determine the east and west line between the two States.

In 1621, James the First granted a charter to the colony of Massachusetts, and bounded it on the south by a line running due east and west, passing on a point three miles south of any of the waters of Charles river. In 1663, Charles the Second made a similar grant to Rhode Island, adopting the same line for the north boundary of that State. In 1718, some difference of opinion being entertained

as to the most southerly waters of Charles river, commissioners *were* appointed by both governments to ascertain the point, and to run the true boundary line between the two States. At their meeting they agreed upon the point from which to take their departure, and run W. 2.24 S. *By* this agreement, it is said by commissioners who have investigated the subject, that Massachusetts lost two miles in width on the south. No doubt good and sufficient reasons existed at that time for deviating from the chartered line, but which at this time (being more than one hundred years since) cannot be assigned.

At the meeting of the commissioners aforesaid, they made the following report, viz:

NEW ENGLAND, *ss.*

REHOBOTH, in the county of Bristol,
October 22*d*, 1718.

At a meeting of us, whose names are under written, being the major part of the committee appointed and empowered by the government of the province of Massachusetts bay, and the colony of Rhode Island and Providence Plantations, as will appear by the several votes and orders of the general assemblys of both the said governments, upon record in their respective books, for the settling the east and west line between the said governments, viz: the south bounds of the said province, and the north bounds of the said colony, which may *issue* all controversies between the said governments and their respective inhabitants, who are in a very good neighborhood, the keeping of which will be for the honor of his majesty and crown of Great Britain, on whom these governments depend, have made this indented agreement, viz:

That the stake set up by Nathaniel Woodward and Solomon Saffary, in the year 1642, upon Wrentham plain, be the station, or commencement, to begin the line which shall divide between the two governments aforesaid, from which said stake the dividing line shall run, so as it may, at Connecticut river, be two miles and an half to the southward of a due west, allowing the variation of compass to be nine degrees; which said line shall *forever* be the dividing line and boundary between the said governments, any former difference, controversy, claim, demand, or challenge whatsoever, notwithstanding.

NATHANIEL PAINE, and seal.
JOSEPH JENKS, and seal.
NATH. BLACKGROVE, and seal.
RANDALL HOLDEN, and seal.
SAMUEL THAXTER, and seal.
SAM'L WILKINSON, and seal.
THOMAS JEFFERY, and seal.

Having fixed upon the "station, or commencement, to begin the line," and having determined it should run in such direction so as it

may, at Connecticut river, be two miles and one half to the southward of a due west line," the commissioners aforesaid appointed a sub-committee to run the line, and erect lasting monuments to perpetuate the same. This sub-committee, in discharge of their duty, made the following report, viz:

PROVINCE OF MASSACHUSETTS BAY.

The committee appointed by two orders of this court, as entered June 18th and November 22d, 1717, to run the divisional line on Rhode Island, report as follows, viz:

We, the subscribers, being a committee appointed and empowered by the government of the province of the Massachusetts bay and the colony of Rhode Island and Providence Plantations, for settling the east and west line between the governments, by virtue of the agreement of the major part of the said committee, at their meeting at Rehoboth, on the 22d of October last past, at which time the said line was fully *settled* and *agreed*, and by them directed to be by us run, having met at the stake of Nathaniel Woodward and Solomon Saffery, on Wrentham plain, the 12th day of May, A. D. 1719, in the morning, and computed the course of said *agreed* line, and found it to be by compass, by which we run, west two degrees and twenty-four minutes south, according to the variation of nine degrees from the magnet, we proceeded to run said line towards Patucket river, and proved our course by measuring from the former lines, run on either hand with Rhode Island and Connecticut; we erected a heap of stones on the east bank of Patucket river, being very high on that side from the water, and marked a pine at about fifteen perch distant from the bank eastward, on the north of the land called Balcomb's land; and from thence crossing the river, continued our course west, as aforesaid, through the country, marking divers trees, and making many monuments of stone in said line, by which it may be easily found hereafter, we carried it by estimation two miles west of Allum pond, where we erected a large heap of stones east of a small river, called Five Mile river.

Dated at said river, the 14th day of May, 1719.

SAMUEL THAXTER,
JOHN CHANDLER,
for Massachusetts.
SAMUEL WILKINSON,
JONATHAN MUMFORD,
for Rhode Island.

In presence of—
JOHN ARNOLD,
JAMES WARREN,
RANFIELD CAPRON.

In council read and accepted. In the house of representatives read and concurred.

Consented to. SAMUEL SHUTE.

JUNE 5th, 1719.

This was also ratified and confirmed by the government of Rhode Island.

In 1730, Rhode Island claimed a part of Massachusetts on the east. In 1740, the King of Great Britain appointed commissioners to hear the parties and decide the controversy. By their decision, Massachusetts lost a most valuable part of the county of Bristol cut off from the shores of Narragansett bay. Although this decision was unexpected to both parties, yet Massachusetts acquiesced in it, rather than to have disputes of this nature continually disturbing the peace and harmony of the two States. As this was a question of jurisdiction discussed before, and determined by a tribunal of the highest authority, and as nothing was said in relation to the line now under consideration, it is to be fairly inferred, that this line was considered by both parties as having been settled by commissioners in 1719, beyond the possibility of ever being again disturbed. The committee therefore recommend the adoption of the following resolutions.

NATHL. P. DENNY, *Chairman.*

Commonwealth of Massachusetts, in the year of our Lord one thousand eight hundred and twenty-five.

Resolved, that in the opinion of this legislature, of the line of jurisdiction between the Commonwealth of Massachusetts on the south, and the State of Rhode Island on the north, more than one hundred years ago, was mutually, formally and equitably settled by commissioners appointed by both governments, and solemnly ratified and confirmed by the same; they therefore can see no good reason for uniting with the government of Rhode Island in an arbitration for settling again principles and lines, which have so long been established and acquiesced in by both parties. But as it is desirable to preserve and cultivate good feelings between the citizens of the two States, the government of Massachusetts hold themselves at all times ready to run the line as anciently settled by the two States, and renew the monuments if found necessary.

Resolved, that the executive of this State be requested to transmit this resolution to the executive of Rhode Island, with a request that he would communicate the same to the legislature thereof.

Sent do[illegible]or concurrence.

Came u[illegible]oncurred.

Approved by the governor.

Vol. 65, pages 408, 411, 412, 413, 414, 415, 416, 417.

SECRETARY'S OFFICE, *Boston, January 24th*, 1843.

The foregoing papers are true copies from the records deposited in this office.

JOHN A. BOLLES,
Secretary of the Commonwealth.

Class No. 6.

No. 1.—Act of assembly of Connecticut appointing Roger Wolcot, Jun., and Phinehas Lyman, esqrs., committee, to concert with those of ours, respec'g northern line, Oct., 1751.

Anno Ri. Rs. Georgij 2*di.* 25*to.*

At a general assembly of the governor and company of his majesty's English colony of Connecticut, in New England, in America, holden at New Haven, in said colony, on the 2d Thursday of October, annoq. dom. 1751.

This assembly being informed by his honor the governor, that in stating the case in the controversy between this colony and the province of Massachusetts bay, the evidence of the distance that the station, from whence the commissioners began to run the line in the year 1713, stands from the southernmost part of Charles river is wanting, and that this evidence may be obtained at Rhode Island. His honor having also laid before this assembly an act of the general assembly of the colony of Rhode Island, appointing a committee to prepare records and other evidences relating to the northern bounds of that colony, and to joyn with a committee to be appointed by this colony in the affair—

This assembly do thereupon appoint Roger Wolcott, junr., and Phineas Lyman, esqrs., to be a comittee to joyn with the committee appointed by the colony of Rhode Island, to concert with them what is needful and proper to be prepared in the controversy relating to the northern bounds of the two colonies; especially to procure evidences of the distance that the station afores'd stands from the southernmost part of Charles river, and to deliver to the governor such evidence, when provided, with their report thereon. And his honour the governor is desired to send a copy of this act to the governor of Rhode Island, and concert with him for fixing the time and place for the meeting of said committees.

A true copy.

Teste: GEORGE WYLLYS, *Secret.*

Acts and Agreements of 1713.—No. 2.

At a general assembly and court of election, begun and holden at Hartford, in her majesty's colony of Connecticut, in New England, on the 14th day of May, in the twelfth year of the reign of our sovereign lady, *Anne*, Queen of Great Britain, &c., anno dom. 1713, and continued, by several adjournments, to the 29th day of the same month:

Upon a view of the agreement of the governors and councils of the province of the Massachusetts bay and this colony, for the appointing of commissioners of both governments, to survey the land lying near the line of division between the said governments, and

to draw a map of the same, to be laid before the assemblies of each government, in order to the government's coming into some method for the fixing of the said line, and putting an end to the controversies relating thereto, or depending therein; and whereas, the said commissioners have attended the said service, and prepared two maps of the said line and lands, signed with all their hands, one of which is transmitted to the governor, council, and assembly of the said province, and the other of them is now lying before this assembly:

It is resolved and ordered, that the governor and council shall appoint commissioners for and in behalf of this government, fully impowered, and they are hereby fully impowered, to meet and treat with such commissioners as shall be appointed and impowered by the government of the said province to meet and treat with them, and to come to such conclusion with them, for the fixing and settling the said line of division between the governments, and securing or establishing all such proportions in lands, as are bordering thereon, and putting an end to the controversies and strifes that have arisen, as they shall judge to be most according to the instructions they, the said commissioners, shall from time to time receive from the governor and council of this colony; and whatsoever agreement the said commissioners, on the behalf of this government, shall conclude with commissioners of the Massachusetts government, as aforesaid, and perfect under their hands and seals, shall forever hereafter be held good and firm, on the part of this government.

At a general assembly, holden at New Haven, in her majesty's colony of Connecticut, in New England, on Thursday, the 8th day of October, in the twelfth year of the reign of our sovereign lady, Anne, Queen of Great Britain, &c., anno dom. 1713, and continued, by several adjournments, to the —— day of the same month:

Whereas, William Pitkin and William Whiting, esqrs., commissioners in behalf of this her majesty's colony of Connecticut, appointed and impowered to settle the line of division between this colony and the Massachusetts province, with such commissioners of the said province as should be appointed and impowered to the same, have showed to this assembly, that, pursuant to the said powers and the instructions to them given, they have attended the said work, and together with Elisha Hutchinson and Isaac Addington, esqrs., commissioners, impowered for that end by the government of the said province, and have considered, concluded, and executed an instrument, bearing date July 13th, 1713, containing certain articles of agreement for the fixing and determining the said line, and controversies thereunto relating, signed with the hands, and sealed with the seals of all the aforesaid commissioners; which

instrument being presented to this assembly, was read and approved, satisfied and confirmed.

And whereas, the governor has also signified that there are certain persons, impowered on the behalf of the said province, together with such as shall be impowered on the behalf of this colony, to run, and set out, and determine the said line, according to the said agreement, and to execute the same, so far as concerns the setting up and fixing the said bounds, in the place and places appointed and concluded upon in the said agreement:

It is hereby agreed aud concluded, that the governor grant a commission, with full power, to the said William Pitkin and William Whiting, esqrs., to meet any persons appointed and fully impowered, as aforesaid, by the government of the said province, to run and mark out the said line, as aforesaid, and finally to fix the same according to the said agreement; and, together with them, to perform and accomplish the said work, and to mark out the said line, according to the said agreement, that it may be and remain the true bounds between this colony and the province aforesaid.

By virue of an order from his excellency the governor, and general assembly of the province of the Massachusetts bay, of the sixth of August last past, as also an act or order of the honorable the governor, and general assembly of the colony of Connecticut, of the eight of October past, impowering us, the subscribers, on the part of the respective governments, to run and state the partition line between the said governments, pursuant to an instrument of agreement, bearing date the thirteenth of July last past, executed by commissioners, impowered by the respective general assemblies of the said two governments, to adjust, settle, and fix that line, as also for running and stating the lines betwixt the two towns, as agreed upon in the said instrument: We, Samuel Partridge, John Pynchon, and William Dudley, esqrs., commissioners on the part of Massachusetts; William Pitkin and William Whiting, esqrs., commissioners on the part of the colony of Connecticut, having met at Wrentham, the twenty-fourth day of October last, to attend said service, by the help and assistance of Samuel Thaxter and John Chandler, esqrs., surveyors, appointed by the aforesaid government of the Massachusetts, and having with them the same surveying instruments which was used heretofore on such an occasion, and upon good proof and trial, is found to vary nine degrees from the meridian line; we began at the stake and station of Woodward and Saffery, in Wrentham township, and ran west to Connecticut river, allowing that variation. We made no monuments till we came in sight of Chaubunagungamug pond, where, upon the south end of a large bald hill, (from whence we could discover the buildings of Woodstock,) and on the east side of the said pond, we erected a large heap of stones; and proceeding west, as aforesaid, by a line of marked trees, we passed along very near the south end of the said pond, and erected another

heap of stones on the west side of the road leading from Oxford to Killingly, where stands a white oak tree marked, also a marked white oak tree, and a heap of stones, four perch east of Stony river; from thence to a heap of stones on the west side the road from Woodstock to Oxford; thence crossing Quimbaug river, we erected another heap of stones on the east line of the township of Woodstock, at about one hundred and twenty perch southward from the northeast corner thereof; from thence to a large white pine, marked, standing near the northwest corner of Woodstock township, at the root of which we laid a quantity of stones; from thence we extended the line over the mountains, marking sundry trees, and erecting sundry heaps of stones, particularly on a large hill, called East hill, and on the east and west mountains, and by marked trees through the plain to Long meadow, in Springfield township, at about one hundred and sixty perch north, from the mouth of Long Meadow brook. We have also measured out the township of Enfield, according to the aforementioned agreement, viz: beginning at the mouth of Long Meadow brook, aforesaid, running southward according to the general course of the river, viz: south thirteen degrees west, six miles, and have erected a stake and heap of stones on the bank of the river, for the southwest corner; from thence we extended east, by the needle, ten miles to a heap of stones on the east side of the high mountains; we then ran north thirteen degrees east, to the line brought up from Wrentham, aforesaid, at the intersection whereof, we have made a heap of stones at the foot of the westerly mountains eastward.

ENFIELD, *Nov. 6th*, 1713.

SAMUEL PARTRIDGE,
JOHN PYNCHON,
WILLIAM DUDLEY,
Comr's for the Massa'tts.
WM. PITKIN,
WM. WHITING,
For Conn't.
SAMUEL THAXTER,
JOHN CHANDLER,
Surveyors.

STATE OF CONNECTICUT, *ss:*

OFFICE OF SECRETARY OF STATE.

I do hereby certify, that the within are true copies of records and files in this office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said State, at Hartford, in said State, this 28th day of November, 1842.

[L. S.]

NOAH A. PHELPS, *Secretary of State.*

Copies from Connecticut.—No. 3.

NEWPORT, *May 5th*, 1750.

GENTLEMEN: The general assembly of this colony have been informed that the northern boundary line of your colony is not settled with the Massachusetts, and, as ours is in the same situation, we have appointed commissioners to meet with such as are, or shall be, appointed by the province; and it being highly probable that your colony and ours may reciprocally assist each other, I send your honors a copy of the act passed here, and request your assistance in the premises.

I am, gentlemen, your most obedient, humble servant,

W. GREEN.

Hon. the Governor and company of Connecticut.

Resolved, by this assembly, that his honor the Governor be desired, and Thomas Fitch, esq., be appointed, and they are hereby desired and appointed, forthwith, to state the case, and prepare the evidence relating to the settlement of the divisional line between the province of the Massachusetts bay and this colony, that, in pursuance of the act of this assembly in May last, the same may be sent to our agent in Great Britain, with the directions given in said act.

Passed in the upper house: concurred in the lower house.

Test: GEORGE WYLLYS, *Sec.*

Test: JOHN FOWLER, *Clk.*

May, 1750.

An act for appointing commissioners, &c., to run and settle the northern boundary line of this colony according to charter.

Whereas, the northern boundary line of this colony hath never yet been settled according to the royal charter; and whereas, divers persons have made application to this assembly, and have set forth their just right to be under the jurisdiction of this government, as dwelling within the bounds thereof, and that the province of the Massachusetts bay have, and do unjustly exercise jurisdiction over them; in order, therefore, to have the said line rightly run and settled, and to prevent any further disputes thereupon between the said province and this colony,

Be it enacted by this general assembly, and by the authority thereof it is enacted, that, as soon as may be, the northern boundary line of this colony shall be run and settled, according to the royal charter granted by King Charles the Second, in the year of our Lord one thousand six hundred and sixty-three.

Be it also enacted, that, to the end the same may be perfected and completed, Jonathan Randal, Richard Steere, and Thomas

Lapham, esqs., and Capt. Joseph Harrison, and Mr. Matthew Robinson, are hereby appointed commissioners; and they, or the major part of them, are fully authorized and empowered to run and settle said line, according to the royal charter aforesaid, as near as may be; and that they, the said commissioners, be commissionated by his honor the Governor; and that the said commissioners, or the major part of them, are fully authorized and empowered to appoint times and places, when and where, to meet any commissioners that are or shall be appointed on the part of the said province; and that the said Jonathan Randal, Richard Steere, Thomas Lapham, Joseph Harrison, and Matthew Robinson, or the major part of them, are hereby fully empowered and authorized to appoint a surveyor, or surveyors, and chainmen, and in general to act and do all and every other matter and thing whatever, for or concerning the aforesaid settlement of said line; and that in case no commissioners on the part of said province, shall and do, on the first Tuesday in October next, or at any other time, as shall be agreed on, meet the said commissioners for this colony, and agree to run and settle said line, as aforesaid, then, and in that case, the said commissioners on the part of this colony, or the major part of them, shall, and are hereby required to proceed to the running and settling said line ex parte.

Be it also enacted, that the secretary of this colony send a copy of this act to the secretary of the province of the Massachusetts bay, withal desiring that the said province would suspend all assessments upon the people and inhabitants included within this colony, by the line already run by Jonathan Randal, Thomas Lapham, and Richard Steere, esqs., as by their return made in January, 1749, as was directed from home to the said province, relating to the eastern boundary of this colony.

Be it also enacted, that a plat of the land contained within said line, so to be run as aforesaid, be drawn up, and that the said commissioners on the part of this colony, or the major part of them, do make report to the general assembly of their doings in the premises, and present said plat at the same time, any laws, customs, orders, agreement or agreements, or any other matter or thing, heretofore done or made, to the contrary hereof in any wise, notwithstanding.

A true copy of an act of the general assembly of the colony of Rhode Island, &c., passed at their session in Newport, the first Wednesday of May, 1750. Examined by

THO. WARD, *Sec.*

WINDSOR, *November 26th*, 1750.

SIR: The occasion of my giving you the trouble of this, is the controversy between the colony of Connecticut and the province of Massachusetts bay, about the line dividing between us. The proposals made by this government to settle this affair by commissioners to be appointed by each party, has been so long rejected, that the

general assembly of Connecticut have directed me to prepare the case, with the evidence, and send it to our agent in Great Britain. And, forasmuch as I am informed that the colony of Rhode Island have the same controversy with the province, and are provided with testimonies where three miles from the southernmost part of Charles river terminates, I have presumed to ask the favor of you to inform me of this evidence, and whether it falls short of Woodward and Saffry's tree, and if so, how much; as also, any other evidence that you shall judge useful for us.

I have not yet received the papers from Meid Law, but, as I remember in your letter to our late Governor, you proposed that the two governments should concert in this affair as far as is proper, and from hence I encourage myself that this motion will not be (a word here not legible) to you.

And let me be esteemed your very humble servant,

ROGER WOLCOTT.

To Wm. Greene, esq.

(Copia.)

WARWICK, *January 5th*, 1750.

SIR: Yours of the 26th of November last, I received the 24th of December following, wherein you request that I will inform you of what evidence we have to prove where three miles southward from the most southernmost part of Charles river terminates, and whether it falls short of Woodward and Saffry's tree, and if so, how much; as also, any other evidence that I shall judge useful for your government, concerning the controversy betwixt your government and the province of the Massachusetts bay, about their dividing line, &c.

I should be well pleased if it was in my power to oblige your honour with the evidence you propose, but at present cannot; our general assembly have some time past resolved to settle the line betwixt us and the province, according to charter, having no regard to any former agreements, and have appointed commissioners to meet with such as shall be appointed by the province for that purpose, and to run the line ex parte, provided the province will not join them; they were to meet at Rentham last month, some time. Our government has been at the expense of getting a land quadrant made on purpose, that after they have measured three miles south from Charles river, they may, in running westward, keep as near as may be in the same latitude, which will be more exact than a compass only.

When these gentlemen inform me of their proceedings, and how near they come to Woodward and Saffry's tree, (or stake, so called,) I will endeavor to inform you thereof, as soon as may be.

I am, sir, your most obedient, humble servant,

W. GREEN.

Hon. Roger Wolcott, esq.

WARWICK, *July* 1, 1751.

SIR: At the time of our general assembly, sitting in June last, we received a letter from the province of the Massachusetts, by which they inform us that it is the determination of their general court to stand by the agreement made betwixt the colony of Rhode Island and that province, in the year 1710, having no regard to any thing that has been acted in that affair since; upon which our general assembly have appointed Stephen Hopkins, esq., Capt. Joseph Harrison and Mr. Matthew Robinson, a committee to procure all such evidence as they shall think proper, and draw up a state of the case, in order to lay before our general assembly, at their session to be held the third Monday in August next, for their further determination thereon; and our committee are directed to confer with your government, or with such persons as are, or shall be, appointed for that purpose; and as your government and this colony seems to have a good understanding at present, I hope we shall do every thing in our power to assist each other in this particular.

I am, sir, your honor's most obedient, humble servant,

W. GREEN.

To the Hon. ROGER WOLCOTT, esq.,
Governor of the colony of Connecticut, at Windsor.

May it please your hon'rs:

This government being lately informed by Mr. Lyman, of Suffield, that your honor, the deputy governor, and himself, were appointed a committee to forward the settlement of the line between your government and the province of the Massachusetts bay, and that you had power to treat with this colony and to join in all such measures as should be most conducive in settling that and our north boundary line between the province and this colony. Since that information, Mr. Lyman wrote to Mr. Robinson, one of our committee appointed to transact that affair, which has been answered by Mr. Hopkins and Mr. Robinson; a copy of which answer accompanies this for your honor's use.

Enclosed we transmit to your honors a copy of the vote of our general assembly, appointing Mr. Hopkins and us a committee to do all things proper to the right settlement of that line, and to correspond with your government in all suitable methods.

When Mr. Robinson was at Providence last week, where Mr. Hopkins lives, they thought best to answer Mr. Lyman's letter, as your honor will see by the copy of it.

Now, we beg leave to assure your honor that we shall wait your answer, to let us know where and when you and the committee think it best that we, or some of us, shall have the pleasure of meeting you and them, in order to settle such methods of conduct as may be most convenient to obtain a final settlement of this our common demand of the province, and put an end to any further

strife about that matter as soon as may be; and, in the interim, we are,

Your honor's most ob't and humble serv'ts,
JOSEPH HARRISON,
M. ROBINSON.

To his Hon'r Gov'r WOLCOTT.

NEWPORT, RHODE ISLAND, *July 4th* 1751.

WINDSOR, *July 25th*, 1751.

GENTLEMEN: Yours of the 4th instant is come to my hand, and, upon examining the act of our assembly, find Col. Fitch, and deputy governor, and Major Lyman were appointed to assist me in preparing and stating the case about the line, but no direction to join with your committee, as your assembly have proposed.

But I am of opinion your assembly have thought very well upon it. Two is better than one, and as we are not now likely to be provided with the evidence of the distance of Woodward's and Saffry's line from the southermost part of Charles river, but as we may have it from you, who, I understand, have prepared it—so it is possible there may be something in what we have prepared that may be of service to you, and find the case of both governments are much alike, I think it is best we should concert by committees; but this must rest till the meeting of our assembly in October next, when I shall lay the matter before them, in order to their consideration; and am, gentlemen,

Your very humble serv't,
R. WOLCOTT.

To Messrs. JOSEPH HARRISON,
M. ROBINSON.

This assembly being informed by his honor the governor that, in stating the case in the controversy between this colony and the province of the Massachusetts bay, the evidence of the distance that the station from whence the commissioners began to run the line in the year 1713 stands from the southermost part of Charles river is wanting, and that this evidence may be obtained at Rhode Island.

His honor having also laid before this assembly an act of the general assembly of the colony of Rhode Island, appointing a committee to prepare records and other evidences relating to the northern bounds of that colony, and to join with a committee to be appointed by this colony in the affair.

This assembly do therefore appoint Roger Wolcott, jr., and Phinehas Lyman, esqrs., to be a committee to join with the committee appointed by the colony of Rhode Island, to concert with them what is needful and proper to be prepared in the controversy relating to the northern bounds of the two colonies, especially to procure evidences of the distance that the station aforesaid stands form the southermost part of Charles river, and to deliver to the governor such evidence when provided with their report thereon.

And his honor the governor is desired to send a copy of this act to the governor of Rhode Island, and concert with him for fixing the time and place for the meeting of said committees.

Passed in the upper house.

Test: GEORGE WYLLYS, *Sec'y.*

Concurred in the lower house.

Test: JNO. FOWLER, *Cl'k.*

Oct., 1751.

NEWPORT, *Dec'r* 21*st*, 1751.

SIR: By the copy of a letter to his honor Govenor Greene from his honor Govenor Wolcott, and a vote of the assembly of the colony of Connecticut, which I received last Thursday night, we of the committee, on the part of this colony, are informed that you and Mr. Lyman are appointed, on the part of your colony, to join us in concerting the most beneficial methods to settle the contested line between the two colonies on the one side, and the province of the Massachusetts on the other, and that the 3d Tuesday of this month was the time for us to meet you at Windham, which, if we had received the information soon enough, we certainly should have done; but since it is so, his honor Governor Greene (in pursuance of Governor Wolcott's letter) desires us to fix a time and place, and to acquaint your Governor of it, which, at the desire of my brethren of the committee, I have now done; and as we thought the 21st of next month would, on all accounts, be best, we have concluded to meet you and Mr. Lyman then at Hartford; hoping that nothing but sickness, or some inevitable accident, will prevent you, as the business is of such very great consequence to our two governments. I have wrote to-day to Mr. Lyman also; but as conveyances of letters at this time of the year is very uncertain, I must pray the favor of you to write to him of our appointment by the first opportunity after your receipt of this. He is desired to do the same to you. Lest we should be obliged to wait at Hartford unnecessarily, we purpose to tarry there that week out, and no longer for you, if we don't find you there at our arrival. We doubt not but you will collect, and bring with you, all the materials you can, as we shall, that may tend to the final settlement of this old dispute.

In the meantime, I am, sir, your most humble servant,

M. ROBINSON,

In behalf of the Comm'te.

To Mr. WOLCOTT,

Superscribed

To ROGER WOLCOTT, Jr., esq., *in Connecticut.*

SIR: The night before last, at my return home out of the country, where I have been about a fortnight, I met with a letter from

Judge Hopkins, of Providence, inclosing one from his honor Governor Greene, with a copy of a vote of your assembly, and of your letter to Governor Greene, which have been communicated to Capt. Harrison.

We should gladly have embraced the opportunity of meeting the gentlemen of your committee at the time and place fixed by your honor, had we known it in season. Capt. Harrison and I have this evening concluded on meeting Mr. Wolcott and Mr. Lyman, your committee, at Hartford, the 21st of next month, where we shall expect to have the pleasure of their company, in order to do all in our power to make the line straight between us and our encroaching neighbors. As we find the difficulty of getting letters conveyed this time a year is very great, and this season inconvenient, we could not hit upon a shorter time, else we should chose to have complied with your honor's desire in meeting sooner. As I shall also write to Mr. Wolcott and Mr. Lyman, lest, through accidents, they may miss of my letters, we pray your honour to inform them of the time and place of meeting, as above, that we may not be unnecessarily detained there. Nevertheless, our purpose is to be at Hartford, if possible, some time that day; and if we should not meet with those gentlemen there, to wait there for them not exceeding that week. We hope that the time will not be inconvenient to them, since we, on search in the almanac, can't find any court to sit then in your Government, which we industriously avoided, notwithstanding we have two courts in our government in that month, which I shall waive the business of in preference to this momentuous affair.

As to the evidences your vote and letter mention, by all we can yet learn, is not (at present) to be obtained; for, upon the strictest inquiry, we could not find where the certain spot is that Woodward and Saffry's stake stood, whether there really ever was any stake set up by them at all, or whether those men ever were in that part of the world; but the most we can find is, that the mention of such a stake or station was a mere figment designed to carry on and accomplish an unfair scheme. When we ran the line last winter, we took a great deal of pains to find out that famous spot in story, but the most we could discover was that Col. Chandler, one of the Boston committee, set up a bean-pole in a certain place on Wrentham plain, and said the famous stake had stood there, but how he knew, or where he got his information, is to us unknown.

We purpose to carry with us all necessary papers to inform your committee as fully as possible, and hope they will bring us all the light they can. Mr. Lyman showed Capt. Harrison and me a plat when he was here, which we pray him to let us have, to peruse at meeting. We thought it then a very fallacious draught, and, I believe, we are furnished with proofs sufficient to demonstrate it to be a very iniquitous one.

In obedience to his honor Govn'r Greene's directions, we inform you of the time and place we intend to meet, and the rest Capt.

Harrison and I tho't proper to just mention, and beg the business may be forwarded as quick as possible.

I am, your honor's most obedient servant,

M. ROBINSON,

In behalf of the Committee.

To his honor Governor WOLCOTT. (Duplicate.)

NEWPORT, *Dec.* 21*st*, 1751.

We, the subscribers, being appointed by the general assemblies of the colonies of Connecticut and Rhode Island respectively, to examine into all the matters of facts, records, evidences, papers, and circumstances relating to the northern bounds of the said colonies towards the province of the Massachusetts bay, with authorities in behalf of each of said colonies to join together and correspond in the prosecution of this matter. And, in pursuance of the things committed to us, we met together at Hartford, in the colony of Connecticut, and, having duly examined to the best of our abilities the whole of this dispute, have agreed to jointly make the following report:

That we find King Charles the First, in the fourth year of his reign, granted a charter to the Massachusetts colony, bounding them southerly in these words: and a certain other river there called Charles river, being in the bottom of a certain bay there called Massachusetts bay; and also, all and singular, those lands and hereditiments whatsoever, lying within the space of three English miles, on the south part of said Charles river, or of any and every part thereof. By which description, compared with the other parts of said charter, it plainly appears that the place or point, which is three English miles south from the most southern part of Charles river, is the place where a line ought to commence, and run from thence due west, to form the southern boundary of said province.

That afterwards King Charles the Second, in the fourteenth year of his reign, granted the charter to the colony of Connecticut; and, in the fifteenth year of his reign, granted his charter to the colony of Rhode Island, and in his said charter bounded both said colonies northward on the south line of the province of Massachusetts bay.

That the said colonies of Connecticut and Rhode Island, lying far distant from the place or point where the said Massachusetts south line ought to commence, were utterly ignorant about it; nor doth it appear they ever concerned themselves about it, till the inhabitants on both sides began to settle pretty near the place where it was supposed the line would pass; and many disorders and confusions arising among the borderers, made it necessary to find where the dividing line between the province and the said colonies ought to be; which occasioned both the colonies of Connecticut and Rhode Island to aply to the province, to have the said line ascertained and marked out; and that when, in order thereto, commis-

sioners were for that purpose appointed—first, by the colony of Rhode Island, in the year 1710–'11, and by the colony of Connecticut in the year 1713, to meet with commissioners appointed by the said province, with intent to find the true place where the said Bay south line ought to commence. When they for that purpose met, the province commissioners informed them that the point or place where their south line ought to commence had long before, in the year 1642, been found out and fixed by Nathaniel Woodward and Solomon Saffery, skillful artists, by them appointed for that purpose; and also showed forth a plan or map, as they then asserted, of the doings of the said Woodward and Saffery, on which was decyphered the southern part of the said Charles river, and a station said to be by them erected, standing three miles, and no more, south from the southern part of the said Charles river, and confidently affirming the said measure to be rightly made, and the said station to be truly fixed; and all the matters being out of the knowledge of the commissioners of both said colonies, but they, by giving credit to, and believing the said province commissioners, were thereby induced—the commissioners for Connecticut, on the 13th of July, 1713, and the commissioners for Rhode Island, finally in October, 1718—to agree that the stake or station set up and erected by the said Woodward and Saffery in the year 1642, standing within three miles of Charles river, should be the place for the said province's south line to commence at; fully believing, as they had been told, and as by the said plan it appeared, that the station was no more than three miles south from the southermost part of Charles river, agreeable to the Massachusetts charter.

That in consequence of the said agreement, entered into in manner aforesaid, the said colony of Connecticut, in the year 1713, and the colony of Rhode Island, in the year 1719, appointed persons called riding commissioners, to meet with persons in the same carracter appointed by the said province, to go and begin in the place in the said agreement mentioned, three miles south from the southermost part of Charles river, and mark out the said dividing line according to the respective charters; who, meeting with the said province riding commissioners, and not being acquainted in that part of the country, nor having any knowledge of the place where the said Woodward and Saffery's station was, the said province riding commissioners, on the part of the province, deceitfully carried them to a place on Wrentham plain, and affirmed that there the station erected by Woodward and Saffery had formerly stood; and the commissioners on the part of the said colonies, not knowing, but really believing it was the right place, and within three miles of Charles river, though in truth the place so shown them was seven miles and fifty-six poles south from the southermost part of Charles river, did there begin to run and mark out the said province's south line; and in consequence of said line, so run, the said province have hitherto exercised and held the jurisdiction.

That the proof of those several facts are clearly made appear—the first by the Massachusetts charter; the second by Connecticut and Rhode Island charters; the third by force of the agreements themselves, and the copy of the pretended plan of Woodward and Saffery; the fourth, that the place where the riding commissioners began is really seven miles and fifty-six poles south from the most southern part of Charles river, by the plan or map drawn by Mr. Harrison, and sworn to by Henry Harris, esq. and Mr. Israel Wilkinson, who have actually and accurately measured the said distance.

That the said place they measured from is really the southern part of Charles river, is proved by the original grants of the town of Medfield, Wrentham, Medway, Billingham, and Holliston—all towns within the said province—and a great number of grants of lands to private persons, all which serve to show what is, and allways was, called and understood to be Charles river; and also show that the small stream, now called Mill brook, and pretended now by the province (to cover over their abovementioned deceit) to be the southern part of Charles river, is only a small brook, and was never at any time called Charles river, but was all along known by the name of Jack's Pasture brook and Mill brook, and can no more properly be called a part of Charles river, than the water in the clouds, which may hapen to fall in such a place as to be conveyed to the sea in the channel of Charles river, may fitly be called a part of Charles river.

That an agreement, procured and perfected in the manner aforesaid, is so far from altering the true lines and limits of jurisdiction, and depriving or abridging the people of those privilidges and advantages granted them by their sovereigns, that we are humbly of opinion that it is not in the power of any to whom the right of jurisdiction is granted by the crown, to transfer the same to any others, (though it might be pretended to be done on the most reasonable and equitable motives, and on the most certain knowledge; for if that should be allowed, all the colonies in America might transfer their jurisdiction, and thereby erect one dangerous government, without the knowledge of, and contrary to the express intention and interest of the king, who first granted such right of jurisdiction, but never made them assignable.

That it appears to us clearly, that the province of the Massachusetts bay have all along, and still do hold the jurisdiction of a tract of land, four miles and fifty-six poles in breadth, and the whole length of the colony of Connecticut and Rhode Island, which they have no right to the jurisdiction of; and are humbly of the opinion that it is advisable for said colonies of Connecticut and Rhode Island to make their application to the king, their sovereign, praying that he would be graciously pleased to order that the south line of the province may be marked out according to the true intents of their charter, and that the said colonies may also hold and enjoy the priviledges granted them by their respective charters.

And lastly, we humbly report it as our opinion, that the state of the cases of the colony of Connecticut and Rhode Island, with the said province, doth appear to be so far similar, that they may be safely and fitly join together and correspond in the prosecution thereof—so far as to procure an order from the crown to have the province south line rightly stated; and that the necessary expenses arising thereon be paid equaly between the said colonies.

All which is humbly

STEP. HOPKINS,
THOMAS ARNOLD.

HARTFORD, *April* 4, 1752.

In the upper house, the foregoing report is approved.

Test: GEORGE WYLLYS, *Sec'y.*

At a general assembly holden at Hartford, in his majesty's English colony of Connecticut, in New England, in America, on the 2d Thursday of May, anno dom. 1752.

Upon the representation made by the committee appointed by the general assemblys of this colony, and the colony of Rhode Island, respectively, to correspond and consult relating to the northern bounds of the said colonies towards the province of the Massachusetts bay.

Resolved by this assembly, that, as the state of the cases of both the said colonies, with respect to the dividing lines between them and the said province, though in some circumstances diverse, yet in substance are so far similar, that this colony may very well join and correspond with the said colony of Rhode Island in prosecuting the said matter of dispute, about the line between the said colonies and province; and therefore this assembly doth agree with the said colony of Rhode Island to consult and correspond with them in carrying on said matter, and to answer one-half of the necessary expences arising thereon, in case that colony hath agreed or shall agree in the same manner in the matter aforesaid; and it is further resolved that, upon the case being stated, and evidences and proofs relating thereto being prepared, his honor the governor be desired, and he is hereby desired, to transmit the same to our agent, directing him to make the best use of them in defending against any motion made in behalf of the Massachusetts for the establishment on confirmation of any former run or agreement; or in case he shall be advised by council that it is best and most expedient to petition for commissioners to ascertain and run the line between the said province and colonies according to their respective charters, that then he pursue that method, and petition the crown therefore on the behalf of this colony, so far as concerns the same.

Concured in the lower house.

Test: JOHN FOWLER, *Clk.*

Passed in the upper house.

Test: GEORGE WYLLYS, *Sec'y.*

May, 1752.

STATE OF CONNECTICUT, *ss.*

OFFICE OF SECRETARY OF STATE,
HARTFORD, *November* 12, 1842.

I do hereby certify, that the foregoing (written on six sheets) is a true copy of original documents on file in this office.

In testimony whereof, I have hereunto affixed the seal of said State, and officially signed the same, the day and year above written.

[L. S.] NOAH A. PHELPS,
Secretary of State.

Copy of the Connecticut case in 1803.—*No.* 4.

To the honorable generall assembly of the State of Connecticut, now sitting at Hartford, the subscribers, appointed commissioners by an act of the legislature, passed in May, 1801, to ascertain the jurisdictional line between this State and the Commonwealth of Massachusetts, respectfully report:

That, pursuant to said appointment, they met, at Springfield, on the 15th day of July last, commissioners appointed by the government of Massachusetts, vested with similar powers; and after some preliminary discussion proceeded to perambulate and survey the line according to the practical jurisdiction from Connecticut river west to Housatonick river. No difficulty was experienced in ascertaining almost all the ancient monuments of the boundary line between the two States; and it appeared that no dispute existed on account of the loss or uncertainty of any such monuments. Some dispute had heretofore arisen from the loss of a monument on the west bank of Farmington river; but a recent discovery of it under the ruins of a large tree, which had fallen upon it, will remove all dispute.

Some dispute had also arisen from an incorrect running of the line from monument to monument, between the towns of Granville and Hartland; but this dispute will be easily settled by a correct running of the line.

The only dispute which at present exists, arises from a claim on the part of Massachusetts to a tract of land about two and one-half miles square, being a part of the towns of Suffield and Granby, and which, it is alledged belongs to Southwick. This tract was under the jurisdiction of Massachusetts till 1774. It was laid out as a part of the town of Westfield, and so continued till 1770, when the town of Southwick was incorporated; and this tract constituted a part of it. In 1774, on application of the inhabitants, it was annexed to the towns of Suffield and Symsburg, and has ever since been under the jurisdiction of this State, tho' Massachusetts has ever kept up a claim and a partial exercise of jurisdiction.

In order to explain the merits of this claim, it will be necessary to recur to the charters and the transactions that have taken place between the two governments on this subject.

In 1620, James I. granted to the council of Plymouth all that part of America lying and being in breadth from forty degrees of north latitude, from the equinoctial line to the forty-eighth degree of said northerly latitude inclusively, and in length of and within all the breadth aforesaid, throughout the main land, from sea to sea, called New England.

In 1628, the council of Plymouth granted to Sir Henry Roswell, and others, "all that part of New England, in America, which lies "and extends between a great *great* river, there commonly called "Monomack, alias Merrimack and, a certain other river, there called "Charles river, being in the bottom of a certain bay, there called "Massachusetts; and, also all and singular the lands and heredi-"taments whatsoever lying within the space of three English "miles, on the south part of Charles river, or of any or every part "thereof; and also all and singular the lands and hereditaments "whatsoever, lying and being within the space of three English "miles to the southward of the southernmost part of the said bay "called Massachusetts; and also all those lands and hereditaments "whatsoever, which lie and be within the space of three English "miles to the northward of said river, called Monomack, alias Me-"rimack, or to the northward of any or every part thereof; and all "lands and hereditaments whatsoever, lying within the limits "aforesaid, north and south in latitude, and breadth, and in "length and longitude, of and within all the breadth aforesaid, "throughout the main lands there, from the Atlantic and western "sea and ocean, on the east part, to the south sea on the west "part.

In 1629, Charles I. confirmed this grant, and gave to the grantees a charter of incorporation, under which the colony of Massachusetts was settled.

In 1630, the council of Plymouth granted to the Earl of Warwick that part of New England which comprehends Connecticut; and in 1631 the earl of Warwick granted the same to Lord Say and Seal, and others.

In 1635, a settlement was begun at Saybrook under Lord Say and Seal, and the grantees of the earl of Warwick. A settlement was also begun at the towns of Windsor, Hartford, and Wethersfield, under a temporary authority from Massachusetts; but the inhabitants of those towns, finding they were out of the jurisdiction of Massachusetts, did, in 1639, form a constitution and establish a government by voluntary compact. In 1644, they purchased of John Fenwick, esqr., the right of Lord Say and Seal, and others; and, in 1662, Connecticut obtained a charter from Charles II., by which they were bounded, north on the south line of Massachusetts.

In 1642, the government of Massachusetts appointed Woodward and Saffery to run their south line. Instead of taking a station three miles south of Charles river, in conformity to their charter,

they took a station, three miles south of a river which discharges itself into Charles river, which, it is apprehended, is severall miles south of the true line. They established a monument on Connecticut river, at Bissel's house, in Windsor, which was more than ten miles south of their first station. Connecticut immediately and ever afterwards objected to this running of the line, and proposed to Massachusetts to run it anew, in conformity to the charter; but they always refused to do it. Massachusetts considered the line of Woodward and Saffery to be the true line, and accordingly granted the towns of Suffield, Enfield, and Woodstock. Connecticut contended that this was not the true line, and granted sundry towns north of the same.

In 1684, the charter of Massachusetts was vacated by a judgment of the court of King's Bench, and in 1691, William III. granted them a new charter, in which their south boundary line on Connecticut was established, to be the same as in the first charter.

In 1700, so many disputes arose among the borderers, from interfering claims arising from the uncertainty of the line, that Connecticut was induced to appoint a committee to apply to Massachusetts to settle the same; they were unable at this time to effect a reasonable accommodation, but in 1713, commissioners appointed by both governments entered into an agreement of the following tenor:

That the dividing line betwixt the province of Massachusetts bay and the colony of Connecticut, should take its commencement from the ancient station of Woodward and Saffery, and that a west line should be run from thence, according to the direction of the royal charter, to the colony of the Massachusetts bay, which line, so far as there were any settlements, was agreed to be run, adjusted and determined by suitable persons, to be appointed by each government for that purpose, within the space of twelve months then next coming, or sooner if it might be conveniently; and afterwards, to be further continued to the full extent, as the governments should direct.

That the town of Woodstock, granted by Massachusetts in 1683, and the town of Symsbury, granted by Connecticut in 1670, should remain to the government by which they were granted, notwithstanding any intersection by a new running of the line. That the towns of Suffield and Enfield should remain in the jurisdiction of Massachusetts, and the town of Windsor in the jurisdiction of Connecticut. That grants made to individuals should be held valid, tho' on running the line they should not fall within the jurisdiction of the government by which they were granted. That where any towns or particular persons, by reason of any concessions made in said agreement, or a new running or fixing of the line, should be cut short or lessened in the quantity of their lands, or where any lands of townships, consented to be under the jurisdiction of the government by which they were established, should appear, upon the

new running and stating of the line, to be on the side of the other government, an equivalent should be made to such government, town, or persons, respectively, of a like quantity of the ungranted lands, if to be found, in lieu thereof. That there should be an after meeting of the commissioners to determine the challanges of particular persons, and the equivalent thereafter to be made for such lands as were granted by one government within the jurisdiction of the other.

This agreement was signed by the commissioners on the 13th of July, 1713, and in the October following was ratified by the general assembly of Connecticut, and about the same time by the general court of Massachusetts.

On the 28th day of December, 1713, the commissioners met and found, by the running of the line by commissioners appointed for that purpose, that Massachusetts had granted seventy-nine thousand seven hundred and eighty-five acres on the east side of Connecticut river, within the colony of Connecticut, which included the whole of the towns of Woodstock and Enfield. They also found by running of the line, that part of the towns of Springfield and Westfield were within Connecticut, and they agreed that the same should remain to the towns of Springfield and Westfield, and continue in the government of Massachusetts.

On the 8th July, 1714, the commissioners again convened, and found from the report of the commissioners appointed to run the line, that on continuation of the same on the west side of Connecticut river, that Massachusetts had granted twenty-eight thousand and eight acres south of the line, within the colony of Connecticut, comprehending the town of Suffield, and part of Springfield and Westfield.

It appears that Massachusetts granted the equivalent lands, pursuant to the above mentioned agreement, and that Connecticut appointed commissioners who sold the same at vendue, for six hundred and eighty-three pounds; and on the 5th day of June, 1716, executed a deed thereof to the purchasers, and received the purchase money.

In 1717, commissioners appointed by each government continued the divisional line from Westfield, five miles to the westward of Housatonick river, and erected durable monuments.

In 1747, the inhabitants of the towns of Woodstock, Suffield, Enfield, and Somers, preferred their petition to the general assembly of Connecticut, alledging they were within the bounds of their charter, and demanding the rights and priviledges thereof.

The general assembly, in May, 1749, passed the following resolve:

Whereas, the inhabitants of the towns or plantations of Woodstock, Suffield, Enfield, and Somers, by their agents, having preferred their memorial to this assembly, at their session in May, A. D. 1747, representing and alledging that the said towns are situate within the bounds of the royal charter granted to this colony, and

complaining that, in the settlement of the dividing line between the province of the Massachuseetts bay and this colony, by commissioners from each government, in the year 1713, it was agreed by said commissioners, that although by the running of the line then agreed upon the said towns fell within the bounds of this colony, yet the said towns should be and remain within the jurisdiction of the said province, the running of the said line notwithstanding; further complaining, that by means of the said towns' being set off and put into the jurisdiction of the said province, the inhabitants of the said towns have been deprived of their just rights and priviledges belonging to them under the royal charter granted to this colony; and therefore they are aggrieved, and petition for relief in the premises, for reasons in their memorial set forth: and whereas, the consideration of the matters aforesaid were referred to this court, and the said agent having now moved therein, and urged that the said agreement was made thro' mistake, and that the government received no equivalent for the jurisdiction over said towns, and that as the same was partly executory it was never fully completed and carried into execution, nor was it ever established by the royal confirmation; and, therefore, tho' it was approved by the respective general assemblies of both governments, yet as to jurisdiction, more especially, it must be looked upon as null and void. Whereupon, this assembly having considered the said memorial, are of opinion, that as it doth not appear that ever the said agreement hath, so it never ought to receive the royal confirmation, and that as the governments could not give up, exchange, or alter their jurisdiction, so the said agreement, so far as it respects jurisdiction, is void; and thereupon this assembly do declare, that all the said inhabitants which live south of the line fixed by the Massachusetts charter, are within and have right to the privaledges of this government, the aforesaid agreement notwithstanding; and forasmuch as there may be some uncertainty with respect to the beginning and running of the line according to the royal charters to both the said governments, therefore this assembly do appoint Jonathan Trumbull, John Bulkley, Elisha Williams, and Joseph Fowler, esqrs., or any three of them, to join with commissioners that may be appointed by the government of Massachusetts, to ascertain and fix the said line according to the said charters, and the same being approved by the governments, that joint application be made for the royal confirmation thereof; and his honor, the governor of this colony, is desired to commission the persons hereby appointed for the purpose aforesaid, and to acquaint the government of Massachusetts with this conclusion, and request their joining with us in the matters aforesaid; and it is further resolved, that his honor the governor be, and he is hereby desired, in case the Massachusetts refuse to join as aforesaid, or in case the commissioners do not agree in the matters aforesaid, to prepare and state the case, and send it to our agent in Great Britain, and direct him to petition his majesty to

appoint commissioners to run and ascertain the divisional line between the said province and this colony, according to the royal charters to the respective governments as soon as may be, and his honor is empowered to draw money out of the treasury sufficient for that purpose. Massachusetts refused to do any thing on the above application, and the above towns immediately put themselves under the jurisdiction of Connecticut.

In 1770, the inhabitants living on that part of Westfield which fell south of the divisional line, were, together with an additional part of Westfield, incorporated into a town called Southwick, and in 1774, they petitioned the general assembly of Connecticut to be annexed to that government, who thereupon passed the following resolve, upon the memorial of Joseph More, Micah Miller, and others, subscribers thereto, showing that they are settled upon a tract of land lying south of the jurisdiction line, between this colony and the province of Massachusetts bay, opposite to the town of Westfield, on the north, and the town of Suffield, on the east and south, and the town of Symsbury, on the west and south, that said lands are well within the ancient bounds of this colony, and ought to be so owned and acknowledged, praying to be annexed, &c., as per memorial, &c.

Resolved by this assembly, that all the inhabitants living on said lands south of the line fixed by the Massachusetts charter, are within and have right to all the priveledges of this colony, and that all the said lands, with the said inhabitants thereon, viz: that part thereof bound east and south upon the said town of Suffield, shall and the same are hereby annexed to the said town of Suffield, and to the west or second society in said town of Suffield, and that such part of said lands and the inhabitants thereon that are situate and bounded south and west on the said town of Symsbury, shall and the same are hereby annexed to the said town of Symsbury, and to the society of Salmon brook, in said town of Symsbury, and that they shall all be entitled to the same privaledges within the same; that the other inhabitants in the rest of the towns and societies in the colony, have and do enjoy by law.

In consequence of the above resolve, the inhabitants therein mentioned came under the jurisdiction of this State, and have so continued ever since. This tract of territory is about five miles in length, and two and an half miles in breadth. Massachusetts does not claim the whole of this territory, but is willing to accept about one half of the same as mentioned in their proposition.

After the survey of the line was compleated and the point in dispute was ascertained, the following discussion took place between the commissioners of the two States, which is herewith reported:

Whereas, divers questions and disputes have arisen with regard to the boundary line of jurisdiction between the Commonwealth of Massachusetts and the State of Connecticut, and the governments thereof have respectively appointed commissioners to adjust and

establish the line westward, from the east line of Southwick, to the southwest corner of New Marlborough, and said commissioners have explored the country contiguous and run said line, and no particular difficulties occurring, except in that part between Southwick, in Massachusetts, and Suffield and Granby, in Connecticut, the commissioners on the part of Massachusetts, by agreement with those on the part of Connecticut, in this form propose, that the line there should begin from a station eight rods south of the southwest corner of west Springfield, and thence run west to the large ponds, and thence southerly by said ponds, to the antient south line of Westfield, from thence on said south line to the antient southwest corner of Westfield, and from thence northerly, in the antient west line of Westfield, to the station in said west line made by the commissioners in 1714, and from thence to the southeast corner of Granville.

The commissioners on the part of Connecticut will readily perceive, that in this arrangement a very small portion of land formerly agreed to belong to Massachusetts, and for which compensation was made, will be retained under her jurisdiction.

By thus establishing that line, a great extent of territory is relinquished by Massachusetts, over which it long exercised jurisdiction, and to which it has a most equitable claim founded on the basis of solemn agreement.

This claim, in case this proposition is acceded to, and not otherwise, the commissioners on the part of Massachusetts are willing to relinquish, in order to preserve harmony between the respective governments, and they cannot doubt but that the same spirit of candor which the commissioners on the part of Connecticut have hitherto uniformly exhibited in their proceedings, will induce them readily to comply with this proposition.

TIMOTHY BIGELOW,
GEORGE BLISS,
JOHN HOOKER,
Commissioners on the part of Massachusetts.

JULY 31*st*, 1801.

The commissioners from the State of Connecticut, tho' very desirous to accommodate the dispute with the Commonwealth of Massachusetts respecting the jurisdictional line of said State, are of opinion that they cannot accede to the proposition made to them by the commissioners from Massachusetts, under the date of the 31st of July last.

This proposition would take from Connecticut a tract of land within its chartered limits about 2½ miles square, which has been under its practical jurisdiction for about twenty-seven years, and would be a deviation from a jurisdictional line otherwise nearly straight between the two States.

The commissioners from Connecticut would observe, that this tract of territory, at the time of the declaration of the independence

of the United States, and when the articles of confederation and the constitution were adopted by the United States, was taxed and represented as part of the State of Connecticut, within the knowledge of the Commonwealth of Massachusetts, and without any objection or claim to the same on their part, by which it is apprehended it was implied that said Commonwealth assented that said territory should belong to Connecticut.

It also appears, from examination, that the right of soil cannot be materially affected by the change or continuance of jurisdiction; that all the inhabitants living on said territory are well accommodated within the jurisdiction of either State; and that it will be as inconvenient to the town of Granby, that said territory should be taken from it and annexed to Southwick, as it will be for Southwick that it should remain in Granby: of course, then, there can be no reason drawn from the superior accommodation of towns, societys, or individuals, to induce an assent to the proposition above mentioned.

It is evident that the jurisdiction of this small territory cannot be an object to the government of either State; and it is equally evident that it is an object of very considerable importance that the line of jurisdiction between the States should be as nearly straight as possible, and that in no instance should a deviation like the one proposed be admitted, unless there be some valuable purpose to be answered. In the present case there appears to be no good reason for disfiguring the State of Connecticut by taking from it a tract of land 2½ miles square; but there is good and sufficient reason to preserve the straight line as now practised.

In regard to the territory which the commissioners from Massachusetts suppose they relinquish by their proposition, it is answered, that when it is considered that said territory is within the chartered limits of Connecticut, and has been under exercise of its jurisdiction for more than half a century, during which time one revolution has happened, and two governments have been adopted, without any claim being made by the government of Massachusetts, there can be no doubt that said government has long ago relinquished all claim of jurisdiction, and the same has become well established in the State of Connecticut; of course the commissioners from Connecticut apprehend that the only territory about which there can be any ground of dispute is that tract which is now claimed by the town of Southwick.

The commissioners from Connecticut would therefore take the liberty to propose to the commissioners from Massachusetts, that a direct line from the monument at the southwest corner of West Springfield, near Rising's house, to the Crank monument, should be the boundary line between the two States.

While they regret that they have not been able to terminate this dispute by acceding to the proposition which has been made, they flatter themselves that the commissioners from Massachusetts, from

the conciliatory disposition manifested on all occasions, will find the present proposition so favorable to the interests of both States as to meet their approbation.

AARON AUSTIN,
ZEPHANIAH SWIFT,
ELIPHALET TERRY.

November 27th, 1801.

The commissioners from Massachusetts, with no small degree of surprize, learn from the communication of the commissioners from Connecticut, of the 27th of November, that their propositions for establishing the disputed jurisdictional line between the two States is not accepted.

This proposition was the result of a sincere wish to accommodate the subsisting disputes, and was dictated by a desire rather to make great sacrifices than that such a controversy should be prolonged.

The commissioners from Massachusetts still indulge the idea that the candour, justice, and equity of the commissioners from Connecticut will induce them to acknowledge the reasonableness of the proposed settlement, and therefore take the liberty to suggest some of the grounds on which it is founded, and to attempt to obviate the objections suggested. And in order to substantiate the reasonableness and justice of this claim, little more is necessary than a short recapitulation of the transactions between the two governments in regard to the line.

This tract of country was early claimed and settled by Massachusetts, as being within their chartered limits, and the line was run by Woodward and Saffry in 1642; but disputes arising respecting that line in 1713, commissioners, with full and ample powers, were appointed by both governments to fix and ascertain the principles by which the running of the line should be governed. These commissioners most fully and explicitly agreed, that in case the towns of Woodstock, Enfield, Suffield, and Westfield should, upon running the line, any part of them fall south thereof, they should still belong to Massachusetts; and certain other towns, if they lay north of the line belong to Connecticut; and the government so retaining lands beyond their line should pay an equivalent. This agreement was from abundant caution solemnly ratified by both governments. As the line was then run Enfield, Suffield, and a part of Westfield lay south of it. Connecticut claimed and received a grant of land equivalent thereto from Massachusetts, and afterwards sold it, and the proceeds of the sale were in part appropriated to Yale college. Massachusetts, as she had always before, still continued peaceably to exercise jurisdiction over the whole of those towns for many years, and over this tract of country part of the old town of Westfield, till the commencement of the revolution, when, during the suspension of the administration of justice in that part of Massachusetts, a part of the inhabitants of the town of Southwick, which

was anciently part of Westfield, disgusted with some proceedings of the town, but then owners of a very small part only of the land in dispute, petitioned Connecticut to be received as a part of that State, and thereupon the assembly of Connecticut resolved that all the inhabitants south of Massachusetts charter line belonged to Connecticut, and proceeded to exercise jurisdiction over them. Massachusetts always claimed it, and at the close of the revolutionary war asserted her claim, and presuming that Connecticut would be disposed to settle any dispute in an amicable manner, appointed commissioners for that purpose. The greater part of the inhabitants on the tract claimed are now as desirous of returning to Massachusetts as they once were of going to Connecticut.

The proposition in question gives up all the right of Massachusetts to the towns above mentioned, and about half of what was within the bounds of Westfield, and claims only that part which lies west of the great ponds.

From this statement, which is fully proved by the documents furnished by each government, it undeniably follows that the jurisdiction of this territory once belonged to Massachusetts. If Massachusetts has ever ceded or lost that right, it may belong to Connecticut, otherwise it cannot.

It is repeatedly asserted in the answer of the commissioners from Connecticut, that the territory in question is within the charter limits of Connecticut. The commissioners from Massachusetts think that this is begging the question, and there is great reason to conclude the whole or a greater part of it is within the Massachusetts charter. If the convention of 1713 and the running in 1714 is the ground of this assertion, it ought most clearly to be taken throughout. Rescind that agreement and it is yet to be settled from what point to begin; and if it can be violated in one part, it may in another; the course by the compass would be to be determined, and the whole line may be altered. Reasoning from analogy, from that part of the line which has been explored, the gradual deviation to the northward of the true course would induce a belief that an accurate and just running would carry the line south of most of this track. But as it cannot be seriously contemplated to fix a new point, and run the whole line without regard to the agreement of 1713, nothing more need be observed on this head.

As to the straightness of the line, the want of regularity and beauty in a map, which is the greatest deformity observable, is in such a question a matter of small consequence. But it ought to be recollected that there are besides this a great number of deviations from a straight course in the division line.

From the first settlement of the country it has been so in some instances, and in others adopted for various reasons. But from the representation from the commissioners of Connecticut, it seems that the acquiescence of Massachusetts in the exercise of jurisdiction by Connecticut at the declaration of independence, and the formation

of the articles of confederation and adoption of the constitution of the United States, is considered as conclusive against this claim. As to the two former, even private rights were protected from being in any way impaired by non-claim in that season. And if it is recollected that at that time Massachusetts was struggling for her very existence, it could not be reasonably expected that she should, while a formidable foe threatened her with destruction, enter into a quarrel with her sister State, or calmly discuss her pretensions to this territory. Had this been her employment at that time, the question might have gone to another tribunal to be settled. When the federal constitution was adopted, Massachusetts was claiming this land; both States soon after appointed commissioners, but various accidents had prevented the matter from being brought to a decision. It is likewise to be observed that Massachusetts has taxed this land, the taxes have been paid, processes of law have been served there, and her courts determined that they had jurisdiction over it. The right of jurisdiction was in dispute; both States claimed and exercised it, and the most that can be said is, that Connecticut exercised a greater share of jurisdiction than Massachusetts; but can it be pretended that the quantum of jurisdiction then exercised is to determine which State has a rightful claim to jurisdiction? No such lapse of time has occurred, even supposing Massachusetts had not claimed or exercised any jurisdiction there, as would barr the right of an individual by common law; either a State is bound by the same rules that would bind a citizen, or it is not. If so bound, Connecticut having suffered Massachusetts to hold this land long enough to acquire a right to it, and Massachusetts not having suffered Connecticut to hold it long enough to acquire a right, it belongs to Massachusetts. If States cannot be barred, length of time cannot affect the question. If Connecticut is not bound by express engagements, Massachusetts ought not to be holden by implied ones.

Had Massachusetts, at the close of the war, in compliance with the wishes of the inhabitants living on this tract of country, resolved that the inhabitants living north of the line agreed upon in 1713 by commissioners from the two governments, were within the limits and had right to all the priviledges of citizens of that Commonwealth, no injustice would have been done; at least Connecticut would have found no fault with the measure. After having taken the present more friendly method, the delays occasioned by it ought not to place her in a worse situation.

It urged that it is of small consequence to which State this tract of territory belongs. If the commissioners from Connecticut think it is, they will unquestionably give it up, if by that means all controversies respecting the divisional line between the two States will be brought to an end. Admitting it to be of small consequence in itself, the commissioners from Massachusetts think it can never be of small consequence, that the agreements and compacts between

the States should be holden sacred. It can never be of trifling consequence to Massachusetts, that her citizens, whenever they have private quarrels concerning their town affairs, should throw off their allegiance, and prevail on neighbouring States to assume a jurisdiction over them. It can never cease to be of primary importance to Massachusetts, that a jurisdiction assumed by a neighboring State, in its public acts, which, on the face of them, purport things very different from the real object, should be strenuously resisted. The title to this land is all holden under grants made by Massachusetts, and some considerable part of it now owned by the original granters residing in Massachusetts. It is impossible to see how far yielding the jurisdiction may affect the title; but it is easy to see that the extent, force and operation of grants made by Massachusetts can be best decided by her own laws and courts. The two towns of Granby and Southwick do not, it is apprehended, stand on equal ground as to the injury either may sustain. Granby, without this territory, will be a large respectable town. Southwick, with it, is barely large enough for a moderate town, and without it, is nearly ruined. The present inhabitants, most of them, attend public worship at Southwick, and almost all their intercourse has been with Southwick, and not with Granby. But as Massachusetts, by the proposed line, yields to Connecticut the jurisdiction of that part of Westfield, east of the Great ponds, for the accommodation of Suffield, and the inhabitants living thereon, they ought to retain this land if their claims were equal. The commissioners from Connecticut will readily see that there is no wish on the part of Massachusetts to revive their claim to those towns east of Westfield, which were ceeded to Massachusetts by Connecticut, though they have full confidence in the justice of that claim; yet they acknowledge, that in case a settlement can be amicably made, it will be expedient that the practical line of jurisdiction, east of this part of Westfield, should remain as it has been some time exercised—but in case our proposal is finally rejected, it ought to be well considered whether the title to the whole may not be drawn in question. Massachusetts not only yields up her jurisdiction over these towns, and over a tract of land east of the ponds, nearly or quite as large as that on the west, but also a large and extensive tract of land, thrown into Connecticut by the mistake of the commissioners in 1714 and 1717, taking a course bearing much too far to the northward. This deviation against the town of Sheffield, gives to Connecticut the jurisdiction of a tract of land far more valuable than this, as a right line would, by the testimony of Mr. More, the surveyor, from Salisbury carry the charter line nearly to the middle of Salisbury. The State of Connecticut, by the act authorizing the appointment of commissioners, have recognized the line at Connecticut river to be right; if so, it must necessarily be wrong at the western boundary of the State.

By the proposed line, in case the commissioners found the true monument in Graville, on the western part of it, a large tract will be taken from Massachusetts, which has long been considered as part of Granville, and bought and sold by the inhabitants there.

This may require further investigation, if it is ascertained that the commissioners actually run to the monument at Slocum's brook. This will afford another reason why the commissioners from Massachusetts should not recede from their proposition.

For the foregoing reasons, and others which might have been assigned, the commissioners on the part of Massachusetts cannot comply with the proposal made by the commissioners from Connecticut; and they are unanimously of opinion, that they ought not, in any respect, to recede from their original proposition. It was made in the spirit of conciliation, and from an earnest desire of harmony, and after an attentive and candid reconsideration, they cannot now view it but as evincing such a disposition.

GEORGE BLISS,
JOHN HOOKER.

APRIL 20, 1802.

The commissioners from Connecticut observe, that the commissioners from Massachusetts, in their communication of the 20th instant, ground their claim to the disputed territory on the agreement made by the two governments on the 13th of July, 1713. That agreement settled the juridical and territorial right between Massachusetts and Connecticut. It was agreed that a line should be run, agreeably to their understanding of the respective charters, and that the towns of Suffield, Enfield and Woodstock should remain under the jurisdiction of Massachusetts, tho' in running the proposed line, they should fall within the limits of Connecticut. On the 28th of December, 1713, it was further agreed, that if any part of the towns of Springfield and Westfield should, on running the line, fall within Connecticut, that such part should remain under the jurisdiction of Massachusetts. It appears that in running the line, in the years 1713 and 1714, by commissioners, pursuant to said agreement, it was found that Suffield, Enfield and Woodstock, and a part of Westfield, were within the limits of Connecticut.

The legislature of Connecticut, tho' they never contended the right of two adjoining colonies to run, ascertain, and settle their boundary lines, conformably to their respective charters, yet they have, by their public acts, denied the doctrine that the colonies ever had the right or the power to vary the line of jurisdiction from the charter, or to agree that towns, which were confessedly within the charter limits of one colony, should be transferred to the jurisdiction of another, without the consent and authority of the then acknowledged sovereign of the empire. In the present case it will be agreed, that the royal assent was never given to the agreement of 1713; that no particular power or authority were ever given, by

the king, to the colonies of Massachusetts and Connecticut, to make such an agreement; and that all the powers they possessed were derived from their respective charters. These, so far from giving them the power to extend, lessen, or vary their jurisdiction, limited them to the exercise of jurisdiction within specified boundaries. At that time, to have admitted the idea that colonies could alienate territory acquired by royal charter, without the assent of the sovereign, would have been subversive of the royal authority.

A chartered government might have acquired the whole of a royal government, without the assent of the king. It may, therefore, be considered as a generall principle, adopted in the British empire in America, antecedent to the independence of the United States, that no colony could vary its jurisdiction without the authority of the crown. It is believed, that this principle was practiced upon, in every instance, except that in question, which, probably, from the small extent of the territory ceded by Connecticut to Massachusetts, escaped the royal observation. There can be no doubt that Connecticut entered into the agreement from a spirit of accommodation, and with an intention to carry it fairly into execution, whether valid or not. The same was fairly and honorably executed, on her part, for a long time, and would have been to the present time, had the inhabitants, living on the territory, ceded to Massachusetts, as aforesaid, been contented to have remained under the jurisdiction of that colony. But in May, 1747, the inhabitants of the towns of Woodstock, Suffield, Enfield, and Somers, preferred their petition to the legislature of Connecticut, alledging that they were within the bounds of their charter, and that the agreement aforesaid, transferring them to the jurisdiction of Massachusetts, not having received the royal confirmation, was void, and demanding the rights and privaledges granted them by the charter to Connecticut. This petition was continued until May, 1749, when the legislature, after a full investigation of the facts, and mature consideration, were of opinion that the governments of Massachusetts and Connecticut could not give up, exchange, or alter their jurisdiction, without the royal assent; and as said agreement had not received the royal confirmation, it was void as far as it respected jurisdiction; and thereupon declared, that all the said inhabitants, living south of the line fixed by the Massachusetts charter, were within, and had right to the privaledges of the government of Connecticut.

In consequence of this, said towns came under the jurisdiction of Connecticut. Massachusetts refused all propositions from Connecticut for an accommodation, and never carried the matter before the competent tribunal for decision, which it was in their power to have done. It appears that the inhabitants, who lived upon that part of Westfield which fell within Connecticut, did not separate from Massachusetts at this time, but in May, 1774, they preferred their petition to the legislature of Connecticut, praying to be annexed to the same.

As these petitions stood upon precisely the same footing as the former, and as Massachusetts had done nothing to set aside the former doings of Connecticut, the legislature considered themselves bound to act in conformity to the principles they had adopted, and accordingly resolved, that all the inhabitants, living south of the Massachusetts line, were within, and had right to all the privaledges of the colony of Connecticut, and annexed them to the towns of Suffield and Symsbury.

The commissioners from Connecticut are, therefore, of opinion, that, as colonies could not vary jurisdiction, without the royal assent, the colony of Massachusetts did not acquire the jurisdiction of the territory in question, in virtue of the agreement in 1713, but that the same remained in Connecticut, and that the legislature thereof were bound to assume and exercise it in the manner they have done. As to the question, whether the contested territory is within the chartered limits of Connecticut, the commissioners of Connecticut would observe, that if the agreement of 1713, and the running of the line in pursuance thereof, be considered as valid, as is contended by the commissioners from Massachusetts, there can be no doubt, for it is expressly found to be within the limits of Connecticut; but if that agreement should be deemed void, both as it respects the line as well as jurisdiction, and the line is to be run anew, the commissioners from Connecticut apprehend, that by running it according to the charter of Massachusetts, it will be found to be considerably further north than the present line; for it is believed that the station of Woodward and Saffrey is more than three miles south of the waters of Charles river, the southern boundary of Massachusetts. They are, therefore, by no means unwilling that there should be a new running of the line, in strict conformity to the charter, from any apprehension of a loss of territory.

It is true that, in running the line from Connecticut river westward, there is a deviation from a west course to the north; yet, it is apprehended from recent observations, that the monument at Woodward and Saffry's station, the point of departure agreed on in 1713, is as far north as at the northwest corner of the State. If so, the line at Connecticut river must be considerably south of the true line, and Connecticut is encroached upon instead of Massachusetts.

The commissioners from Connecticut are therefore of opinion, that, in either point of view, the territory in question is within the chartered limits of Connecticut.

It is apprehended that the commissioners from Massachusetts labor under a mistake, in supposing any land is taken from that State in the western part of Granville. Some disputes seem to have arisen there from a loss of some of the monuments erected by the commissioners in 1717. The discovery of the monument has removed the dispute; and tho' it is found that the inhabitants under Massachusetts have, by mistake, claimed more land than they had

a right to, yet a correction of that mistake cannot be considered as taking land from Massachusetts, or as founding a claim for compensation.

It is readily agreed that it is impossible to see how far yielding the jurisdiction may affect the title to the lands in question; but, if it will produce any effect, it will be acknowledged that Connecticut ought to conduct with great caution, in ceding a jurisdiction where private rights may be affected.

Under these impressions, the commissioners of Connecticut think they cannot be justified in acceding to the proposition of the commissioners from Massachusetts. They request them further to consider the proposition they have made to them, and hope, from their candor and liberality, that an acquiescence in it will prevent any further dispute between two States whose mutual interests require the most perfect harmony and good understanding.

AARON AUSTIN,
ZEPHANIAH SWIFT,
ELIPHALET TERRY.

SUFFIELD, *April* 21*st*, 1802.

As the commissioners from Connecticut, in their communication of the 21st of April last, have denied the validity of the agreement of 1713, the commissioners from Massachusetts will make a few remarks on that subject, premising that it is a mistake to suppose the claim of Massachusetts is vested wholly on that agreement. It is apprehended that if that agreement is out of the question, the disputed territory must fall within the charter limits of Massachusetts; and, indeed, were it not for the confusion that would result from the division of towns, and the possessions of individuals, from running the line anew, and the comparatively small advantage accruing to Massachusetts from gaining a strip of country from Connecticut, it is very clear that she had better give up both the jurisdiction and the price paid for it, than adhere to the proposition now made, or even to the original agreement.

It is presumed that if the agreement of 1713 is to be annulled, Connecticut will have the justice to restore to Massachusetts the equivalent lands, or pay her a fair price for them; resuming the claim, and retaining the price, being too new a principle in political morality to be adopted by Connecticut.

The agreement in 1713 was in itself a most reasonable one; so much so, that, if it were rescinded, it is impossible to conceive that any commissioners now appointed would fail to make a similar one. It secures to the several towns on the borders a continuance under the jurisdiction of that State to which they had always belonged, and to individuals their property and protection from that government from which they had originally received it, and stipulates that a fair price should be paid for all the territory which either should hold beyond its original claim.

This is, in brief, the agreement of 1713, as it respects the subject in dispute. Massachusetts, as early as 1650, had granted out and settled the towns of Enfield, Suffield, and Westfield, and had exercised jurisdiction over them for more than sixty years, when the agreement was made in 1713. The south line of Massachusetts had been run by Woodward and Saffrey in 1642, and by them found to strike Connecticut river in Windsor, and those towns had been granted and settled by Massachusetts some years before the charter of Connecticut was granted. The claims of the two governments interfering, surveys were ordered to be made by both, which being done in May, 1713, the legislature of Connecticut passed an act appointing commissioners, with full powers to fix the principles for running the line, and settle the dispute. On application, they were joined by commissioners from Massachusetts, with similar powers. They met in June, and, after various propositions, on the 13th of July made the agreement in question.

This agreement was afterwards solemnly ratified by the legislatures of each government, it was carried into effect and compleately executed by both. Massachusetts retained and exercised sole jurisdiction over the land in controversy until the year 1774, which is considerably more than a century. Connecticut yielded no territory or jurisdiction which it had ever enjoyed or exercised, no towns or individuals were by that agreement put out of her protection, they remained a part of Massachusetts, and if their assent were necessary, all the proprietors or inhabitants capable of assenting in 1713, had done it expressly or tacitly by holding lands under the grants of Massachusetts, and enjoying the protection and benefit of her laws. There was in executing this agreement no *transferring*, *alienating*, or *varying* jurisdiction; it most cautiously guards against any changes of jurisdiction, expressly stipulating that it should remain as it was.

How far the royal assent could be necessary to give efficacy to the acts of a government so entirely unrestrained, and possessing all the essential rights of sovereignty as Connecticut then did, might be very questionable.

As to Massachusetts, the king's representative, the governor, approved of the compact, and if more were necessary, as it has been contended, that it was yielding up a right to Massachusetts, the royal assent will be presumed to this grant or relinquishment of claim to a royal government. It is contended, that in such a case, unless an express dissent by the king could be shown, the crown itself would be bound, especially after jurisdiction had been so long exercised over the land in dispute. But if the crown might have interposed and defeated the agreement so as not to be bound, still it is plain that the parties to the contract are completely and forever estopped from saying they had no right to make it.

By the charter of Massachusetts, all the orders, laws, and ordinances of the government were to be transmitted to the king for

his allowance or disapprobation, and in case he disallowed or rejected any of them in three years, then such were to become null and void. In this case, therefore, the act of appointing commissioners, the act ratifying the doings of the commissioners, and the agreement made by them, were transmitted to the king, and he ever disallowed or rejected them, which is equivalent to an actual confirmation.

Previous to the year 1710, Connecticut had made application to the king respecting this line, and in that year Governor Salstonstall wrote to the governor of Massachusetts, that he was expecting orders concerning it. As in 1713, at the instance of Connecticut, commissioners were appointed by both governments, it appears highly probable that the orders sent were to settle the controversy in the way that was taken, and especially as similar orders were repeatedly sent in regard to the line between Massachusetts and New Hampshire.

The facts that application had been made to the king a short time previous to the appointment of commissioners, and that all the acts and orders of Massachusetts respecting it, were immediately transmitted to the king, and never rejected or disallowed by him, shew most clearly, that the whole affair was transacted and concluded upon under the direction, and with the approbation of the crown. But were there any doubt existing whether the agreement was made under or approved by proper authority, yet the transaction was all fair and reasonable, and then satisfactory to both parties. Connecticut received compensation by more than 100,000 acres of land in Massachusetts, which she sold and had the proceeds of; and can she now, upon any principles of justice, when become independent, and when she has unquestionably the power of conforming to that agreement, determine that she will not be holden by it in so small a degree as is claimed in the proposition of July last? It can never be seriously contemplated wholly to rescind the agreement of 1713, and pass over all that was then done as invalid. How far it would be reasonable under all circumstances now to conform to it, is, and hitherto has been, the only question between the commissioners. This was the principle upon which in last July they begun and run the line from Connecticut, to Housatonick river. It appears, also, to have been the principle upon which the act of assembly of Connecticut appointing the present commission, and the limited powers given it, was framed.

The ground taken by the commissioners from Connecticut, in their communication of April 21st, is totally different, as it is predicated upon the absolute invalidity of the doings of the two governments in 1713. If those doings are to be considered as valid, and as a guide in any part, why not in this? The commissioners from Massachusetts, desirous of viewing the subject in a reasonable light, claim no more than is necessary to retrieve the town of Southwick from its present mutilated state, and put it in some measure into

the situation it was in when made a town, and that with the least inconvenience to the adjoining towns in Connecticut. They forbear making observations on the two acts of the assembly of Connecticut, passed in 1749 and 1774, as they presume it can never be contended that the acts of one party can discharge it from the moral obligation it is under to fulfill its compacts. Had Massachusetts resolved to exercise exclusive jurisdiction over that part of the town of Southwick, of which the act of Connecticut of 1774 attempts to deprive her, Connecticut could have no reason to complain; but Massachusetts preferred this amicable method to accommodate and put an end to all causes of animosity; and her commissioners sincerely hope that object may be effected, and that their proposition will be complied with.

GEORGE BLISS,
JOHN HOOKER.

MAY 6th, 1802.

The commissioners of Connecticut consider it to be an important fact, in the present question, that the land in dispute is within the charter limits of Connecticut, which is denied by the commissioners of Massachusetts in their communication of the 6th instant.

The southern boundary of Massachusetts is three miles south of Charles river, or of any or every part thereof. Massachusetts adopted the construction that every river running into Charles is a part of it; and, accordingly, the station of Woodward and Saffery, instead of being fixed three miles south of Charles river, is placed three miles south of a river running into it. This is not believed to be a correct construction of the charter. It is evidently the intention of the grant that a station three miles south of the most southern part of Charles river should be taken, and not that a station should be taken three miles south of a river, running into it, which is known by a different name, and can never be a part of it till it enters into it. A construction similar to this, of the same expressions in the charter of Massachusetts, was adopted in settling the line with New Hampshire.

Upon this construction, the divisional line would be several miles further north than that agreed upon in 1713.

The commissioners of Massachusetts suggest that Connecticut, if the agreement of 1713 is annulled, ought to restore the equivalent lands, or pay a fair price for them, as it is not just to resume the thing granted, and retain what has been paid for it. To this the answer is easy. The equivalent lands were given for the same quantity granted, and sold by Massachusetts in Connecticut, which they have ever since holden, and not for the jurisdictional right, for which Massachusetts made no compensation. If Connecticut resumes the jurisdiction, it is only resuming a right which Massachusetts obtained without an equivalent.

Much is said respecting the reasonableness of the agreement of 1713. It is conceded that where an agreement is legally made it is obligatory, tho' it may not be perfectly reasonable, and the commissioners of Connecticut have never objected to this agreement on that ground; yet the subject being introduced, they will take the liberty to make a few remarks upon it. It is a fact, perfectly well known, that the line of Woodward and Saffery was established ex parte; that Connecticut always objected to it, and frequently proposed to run it anew, in conformity to the charter. They proposed it at the time the agreement of 1713 was made. If this had been done, the transaction would have been fair and reasonable; but this Massachusetts refused. They insisted, and Connecticut was obliged to agree, that the station fixed in 1642, which they had always objected to, should be considered as the true point; that Massachusetts should retain the jurisdiction of all the land she had granted south of it, without compensation, and give, as an equivalent for the lands, the same number of acres of her ungranted lands. But the commissioners of Massachusetts seem to rely chiefly on the presumptive evidence they have stated, that the assent of the crown was given to the agreement of 1713.

The charter of Massachusetts, given in 1691, requires that all orders, laws, statutes, and ordinances of the government, should be transmitted to the King, for his allowance or disapprobation; and, if disallowed within three years, to be void; otherwise, to be in force. This manifestly related to the internal regulations of the province, and not to compacts made with other colonies to change the boundaries and jurisdiction established by the charter, and to do which no power was granted.

Whether the act of the government of Massachusetts appointing commissioners, in 1713, was transmitted to the King, is unknown to Connecticut, and it seems no proof can be adduced but what arises from a presumption that all acts were transmitted according to the charter. But, let this fact be as it may, it is apprehended that in all cases where the charter of a colony was to be altered, and the jurisdiction changed, it was requisite that the assent and approbation of the King, in council, should be explicitly given by some public act, to give validity to the transaction. This was practised in various instances where colonies undertook to settle their boundary lines in conformity to their charters—as in the case of New York (a royal government) and Connecticut; and it must certainly be deemed to have been much more necessary in cases where the line of jurisdiction was to be varied.

It appears in 1749, when the towns of Suffield, Enfield, Somers, and Woodstock, were annexed to Connecticut, the legislature explicitly declared that the agreement of 1713 had never received the royal confirmation, and appointed commissioners to join with Massachusetts in settling the line and applying to the King for a confirmation; but Massachusetts refused to join in the measure, and

suffered Connecticut to exercise jurisdiction over the above mentioned towns, without taking any steps to bring the dispute before the proper tribunal for trial. At that time it could have been much better ascertained than at present, whether the express or implied assent of the crown had ever been given to the above mentioned agreement. And can it be presumed that Massachusetts could have suffered Connecticut to assume and exercise jurisdiction over said towns, if the agreement of 1713 had received the royal confirmation? The neglect and refusal of Massachusetts to do any thing on the subject, is strong evidence of a consciousness that they had not a right of jurisdiction. As to any authority given by the crown to the government of Connecticut to settle the line, it may be answered, that no such document can be found, and it is believed that no such authority was ever given.

It is suggested by the commissioners of Massachusetts, that, admitting the crown was not bound by said agreement, yet the parties are forever estopped from saying they had no right to make it. But if the parties had no power to make such an agreement, all their proceedings are absolutely void. At any rate, this agreement cannot be deemed valid against the people, who are not parties to it. The inhabitants living on the ceded territory, in the jurisdiction of Connecticut, may say, that the contracting parties having no power to make this agreement, it is not binding on them without their assent, and that they have a right to contest the validity of the agreement, even admitting that the contracting parties could not. It was on this principle that the inhabitants of the beforementioned towns, and of the territory in question, made their application to Connecticut, and demanded the privaledges of the charter; and on this ground Connecticut was warranted to take them into their jurisdiction.

On these considerations, the commissioners of Connecticut think they cannot accede to the propositions of the commissioners of Massachusetts. But wishing that no misunderstanding should subsist between the two States, they will report to the legislature of Connecticut all the facts relative to the subject, and the communications that have passed between the commissioners of the respective States.

AARON AUSTIN,
ZEPHANIAH SWIFT,
ELIPHALET TERRY.

May 21*st*, 1802.

This closed the discussion of the claim of Massachusetts.

The commissioners of Connecticut would observe to the legislature, that in the foregoing communications will be seen the reasons which induced them not to accede to the proposition of Massachusetts. As they have devoted a considerable time in obtaining the necessary documents and information, and as it is possible that

Massachusetts may further prosecute their claim, they have tho't proper to report a state of the case, with the grounds of the claim of Massachusetts, so that the legislature should have all the facts before them, if they judge it expedient to adopt any further measures.

The commissioners herewith report the field minutes and survey of the line from Connecticut to Housatonick river, made by Andrew Peters, surveyor, on the part of Massachusetts, and Seth Peas, surveyor, on the part of Connecticut, by which the line can always be ascertained with ease and correctness.

All which is submitted by your honors' most obedient servants,

AARON AUSTIN,
ZEPHANIAH SWIFT,
ELIPHALET TERRY.

HARTFORD, *May* 21, 1802.

At a general assembly of the State of Connecticut, in America, holden at Hartford, in said State, on the second Thursday of May, in the year of our Lord one thousand eight hundred and two—in the upper house, read and ordered to be lodged on file.

Test: SAM. WYLLYS, *Secretary.*

Concurred in house of representatives.

Attest: E. GOODRICH, *Clerk.*

Agreement entered into by the commissioners appointed to ascertain and establish the boundary line between the Commonwealth of Massachusetts and the State of Connecticut, on the west side of Connecticut river.

To all to whom these presents shall come—the underwritten John Hooker, Timothy Bigelow, and George Bliss, commissioners appointed by the Commonwealth of Massachusetts, of the one part, and the underwritten Aaron Austin, Eliphalet Terry, and Thaddeus Leavitt, commissioners appointed by the State of Connecticut, of the other part—send greeting:

Whereas the commissioners heretofore appointed to ascertain the boundary line between the said Commonwealth and said State, did not compleat the same, by reason of disagreement respecting the line between the town of Southwick and the towns of Suffield and Granby; and whereas a compromise was heretofore proposed by said Commonwealth of the differences respecting the line between said town of Southwick and said Commonwealth, and the towns of Suffield and Granby, in said State, (to wit:) that the line should begin at a station eight rods south of the southwest corner of West Springfield, and thence run west to the large ponds, and thence southerly by those ponds to the ancient south line of Westfield, and thence in said south line to the ancient southwest corner of Westfield, and thence northerly in the ancient west line of Westfield, to the station in said west line made by commissioners in the year one thousand seven hundred and fourteen, and thence

to the southwest corner of Granville; which compromise was acceded to by the said State of Connecticut. And whereas, by an act of said State of Connecticut, made and passed at the session of their legislature in May last, the said Aaron Austin, Eliphalet Terry and Thaddeus Leavitt were appointed commissioners on the part of said State, for the purpose of compleating the running and demarcation of the boundary line between the towns of Suffield, Granby, Hartland, Colebrook, Norfolk, Canaan, and Salisbury, in said State, and the towns adjoining them in said Commonwealth; and were thereby authorized and empowered to meet commissioners appointed and vested with similar powers by the legislature of said Commonwealth, and in conjunction with them, to ascertain, run and mark said boundary line, through the extent aforesaid, and to agree upon such principles respecting the running of said line as, from the best evidence they could obtain, might appear to them just and reasonable, and were duly commissioned in conformity to said act. And whereas, by an act of the legislature of said Commonwealth, made and passed at their last session, the said John Hooker, Timothy Bigelow, and George Bliss, were appointed commissioners on the part of said Commonwealth, for the purpose of compleating the running and demarcation of the boundary line between the towns of West Springfield, Southwick, Granville, Southfield, New Marlborough, Sheffield, and Mount Washington, and any tract or tracts of unincorporated land in said Commonwealth, and the towns adjoining thereto in said State. And the said commissioners, or any two of them, were, in and by said act, authorized and empowered to meet commissioners appointed and vested with similar powers by the legislature of said State, and in conjunction with them to ascertain, run, and mark said boundary line through the extent aforesaid; and in and by said last mentioned act, it was provided that no variation, which should be established by said commissioners, from the line theretofore existing, should affect the private rights and titles derived from said Commonwealth and State respectively. And by the same act, said commissioners, or any two of them, were authorized and empowered to agree upon such principles respecting the running the said line, as from the best evidence they could obtain, might appear to them just and reasonable. And the said commissioners, on the part of said Commonwealth, were duly commissioned in conformity to said act, as by the said acts and commissions, relation being thereto had, may more fully appear.

Now therefore, know ye, that the underwritten commissioners on the part of the Commonwealth of Massachusetts and the State of Connecticut, respectively, having assembled in order to the due execution of their respective trusts, and having duly exchanged and considered their respective powers, and declared the same legal and sufficient, to the end that all doubts, interfering claims, and controversies between the said Commonwealth and State, in respect of jurisdiction, may be finally settled, the boundary line aforesaid

clearly ascertained, and harmony forever established on the most solid foundation, have agreed, and by these presents do mutually, for and in behalf of the said Commonwealth and State, by whom, respectively, the said commissioners have been appointed and authorised as aforesaid, agree—First, that the ancient practical between the towns of West Springfield and Suffield, shall constitute the said line of jurisdiction, so far as the same extends. Secondly, that from the southwest corner of Westfield, to the southeast corner of Granville, the line of jurisdiction shall conform to the line described and mentioned in the aforesaid acts of said Commonwealth and State respectively. Thirdly, that from the southeast corner of Granville, the line of jurisdiction shall conform to the line run by commissioners in the year one thousand seven hundred and seventeen, through the whole extent thereof, as nearly as the same can be ascertained; and that from the termination of that line, the said line of jurisdiction shall run straight to the northwest corner of said State of Connecticut.

Fourthly. That upon the principal public roads which intersect said line of jurisdiction, and at other proper places, there shall be erected stone monuments containing suitable inscriptions; and in conformity to said principles, and the aforesaid acts of said Commonwealth and State, we proceeded and ran said line of jurisdiction, as follows, (to wit:) Beginning at the ☞northeast corner of Suffield and the southeast corner of West Springfield, on the west bank of Connecticut river, at a point 75 links northward of the center of a small valley running into said river, said point being between a small butternut tree marked M. C., standing on the south, and a small crooked white oak, marked M., standing on the north, about two feet distant from each other, and then run No. 82° 45 m. Wt. one chain, to a stone monument erected by us; then in the same course 22 chs. 25 l., to a stone monument on the stage road from Springfield to Suffield; and said course continued, would pass two feet north of Smith's house; thence No. 82° Wt., 82 ch. 30 l., to a stone monument on the middle road from Suffield to Springfield; then in the same course 13 chs. 30 l., to a large black or red oak tree, marked on the east side C., and on the west side M., being an ancient bound; thence No. 77° 4 m. west, 134 ch. 42 l., to a stone monument on the road from Feeding hills meeting-house to Suffield; thence in the same course 4 ch. 21 l., to a pine stump, an old monument; thence No. 79° 48 m. west, 102 ch. 80 l., to a stone monument in the road from Westfield to Suffield, called the back street; thence No. 84° 30 m. W., 61 ch. 20 l., to a stone monument at an old stump and stones, the ancient southwest corner of West Springfield; thence S. 5° W., 2 chs., to a stone monument in the line run by commissioners in 1714; thence No. 85° W., 167 chs. 33 l., to a stone monument at the middle pond, 22 l. east of low water mark, being at the center of a little valley running into said pond; thence on the east shore of said pond, as the same runs southerly, to a sluice-way, or outlet from said pond to the south

pond; thence southerly on the east shore of the south pond, as the same runs to a stone monument, at high water mark, on the south corner of said pond, being the south end of the most southerly bay thereof, from which the point of land beyond the bay on the east side of the pond bears N. 29° E., and the high point beyond the bay on the west side of the pond is north 3° 30 m. east; thence S. 10° 20 m. W., 24 ch. 78 l., to a stone monument at the southeast corner of Southwick, in the ancient south line of Westfield, from which the highest peak of Manatick mountain bears S. 42° 30 m. W.; thence S. 87° 30 m. W., 33 ch. 86 l., to a heap of stones in a hedge, being an ancient monument in the south line of Westfield, and the northwest corner of Suffield, adjoining Granby; thence in said ancient south line of Westfield, the same course to a stone monument at a white oak stump, an old monument, the southwest corner of Southwick being 174 c. 36 l.; thence N. 10° 20 m. E., 212 ch. 84 l., to a stone monument erected by us at a place in the ancient west line of Westfield, where commissioners in 1714 established the monument called the Crank monument; thence N. 72° 78 m. W., 137 ch., to a stone monument erected by us at the east road from Granby to Granville, in this course, at the distance of 86 ch. 20 l. from the Crank monument, we passed between two pillars of stone, 45 l. south of one and 13 l. north of the other, both said to be the southeast corner of Granville; thence on the same course, 61 ch. 40 l., to a stone monument erected by us on the Granby turnpike road; thence in the same course 44 ch., to a white oak tree marked by commissioners in 1717, and which we marked M. on the north side and C. 1803 on the south side; then N. 84° 24 m. W., 5 c. 13 l., to a stone monument erected by us on the west road from Granby to Granville; thence in the same course 200 c. 37 l., to a white elm stump and stones on the west bank of Valley brook, so called, a monument made by commissioners in 1717; in this course three monuments are mentioned by said commissioners which we do not find; thence N. 85° 7 m. W., 60 c. 15 l., to a stone monument erected by us at a new road near the east bank of Hubbard river; thence the same course 2 c. to a dry hemlock tree with stones about it on the west side of said river, near a small fall, and a rock on the east side of said river, stooping towards it more than two rods, a monument erected by said former commissioners; thence N. 82° 52m. W. 109 c. 35 l., to a stone monument erected by us on the road leading from Granville to Hartland; thence same course 275 c. 91 l., to a large heap of stones on the west bank of Slocum brook, between two hemlock trees, having many ancient and modern marks thereon, being a monument made by said former commissioners; in this course, the commissioners, in 1717, made mention of a large hemlock tree, and a very large white ash tree, which we do not find; thence N. 81° 45 m. W. 65 c., to a stone monument erected by us at the turnpike road by Farmington river; thence same course 5 c., to a heap of stones, a monument

erected by said former commissioners on the west bank of said river; thence N. 81° 50 m. W. 93 c. 74 l., to a stone monument, erected by us on the Beach hill road, so called; thence in the same course, 235 ch., to a stone monument, erected by us at a heap of stones, about an elm tree, standing on the west bank of Sandy brook, a monument made by said former commissioners, who mentioned, in their report, a monument in this course, which we do not find; thence N. 82° 11m. W. 357 c. 30 l., to a stone monument, erected by us on the road from New Marlborough to Norfolk; thence same course, 38 c. 20 l., to a monument made by said former commissioners, on the west bank of Whiting river, near falls, being a heap of flat stones, on a large rock; thence N. 82° 9m. west 219 c. 25 l., to a stone monument at the end of the Greenwood's turnpike road; in this course, said former commissioners marked two trees, which we do not find; thence, in the same course, 161 c. 75 l., to a stone monument at the Burrell road, so called, leading from Canaan to Sheffield; thence, in the same course, 49 c., to an elm tree, with stones near it, on the east bank of Housatonick river, about six rods west from a chesnut stump and stones, a monument made by said former commissioners, who also marked a white oak tree in this course, which we do not find; thence north 82° 52m. W. 20 c. 50 l., to a stone monument, erected by us at the road leading from Salisbury to Sheffield, called Wheating road; thence, in the same course, 119 c. 50 l., to a stone monument, erected by us at the road from Salisbury to Sheffield, near Ebenezer Fletcher's house; thence, on the same course, 211 c. 35 l., to a stone monument, erected by us at the mountain road from Salisbury to Sheffield; thence, on the same course, 28 c. 4 l., to a monument, established by said former commissioners, at the foot of the mountain, being a heap of stones on a large rock, 20 links long on the northeasterly side, five feet high on the southerly side, and which we marked 1803, on the southerly side; thence N. 85° 30′, W. 147 c. 20 l. to a stone monument erected by us at the road from Salisbury to Mount Washington; thence, on the same course, 81 c. 80 l. to a large heap of stones, the oblong corner bounds, so called between the State of Connecticut and New York. In the last mentioned distance we crossed two mountains; on the top of each of which we erected a heap of stones before the line was fully corrected, but which will not be found to be far from the true line, which it was difficult exactly to ascertain, on account of an inequality of the needle at those places. The courses of said line, as before given and run by us, are according to the present state of the magnetic needle, which we observed to vary five degrees to the west of north. The stone monuments erected by us are from two to three feet high, one foot broad, and eight inches thick, inscribed on the north side M. and on the south side C., and also with the figures 1803 on one side, and the words *State line* on each side—such as stand at corners are suitably inscribed on three sides, and

all those on the roads intersecting said line are on the east side of such roads.

And the said commissioners, pursuant to the power and authority vested in them respectively by the acts and commissions aforesaid, do hereby establish the line by them run and described as aforesaid, and which is protracted on a plan accompanying these presents, to be the true boundary line of jurisdiction between the said Commonwealth of Massachusetts and State of Connecticut forever hereafter.

Provided, however, that, not being able in all cases to find all the monuments established by former commissioners, nor ascertain the line which they run with precision, these presents are not to be considered as evidence of that line, or in any degree to prejudice the claims of individuals to the lands contiguous thereto.

In testimony of all which, the said commissioners do interchangably set their hands and seals to duplicates to these presents, on this thirtieth day of November, in the year of our Lord one thousand eight hundred and three.

JOHN HOOKER, [L. S.]
TIMOTHY BIGELOW, [L. S.]
GEORGE BLISS, [L. S.]
AARON AUSTIN, [L. S.]
ELIPHALET TERRY, [L. S.]
THADDEUS LEAVITT. [L. S.]

Witnesses present:
ABRAHAM BURBANK,
SAMUEL FLOWER,
GIDEON MORLEY,
NATH'L SPENCER.

At a general assembly of the State of Connecticut, in America, holden at Hartford, on the second Thursday of May, in the year of our Lord one thousand eight hundred and four, in the upper house, the foregoing agreement was read, approved, and ordered to be recorded in the public records of the State.

And it is further ordered, that the said agreement, together with the plan accompanying the same, be preserved in the files of the secretary's office.

Test: SAMUEL WYLLYS, *Secretary.*

Concurred in the house of representatives.

Test: N. ROSSITER, *Clerk.*

I, Thomas Day, secretary of the State of Connecticut, do hereby certify and make known, that the above and foregoing is a true copy of original documents on file in my office, and of the votes and resolutions of the general assembly of said State thereon.

In testimony whereof I have hereunto set my hand and [L. S.] affixed the public seal of said State, at the city of Hartford, this 26th day of July, A. D. 1811.

THOMAS DAY.

SUPREME COURT OF THE UNITED STATES.

No. 1.

RHODE ISLAND vs. MASSACHUSETTS.

Papers put into the case by Massachusetts.

No. 1.

Benjamin Rockwood—Deed to John Corbett, rec'd Oct. 26, 1765.

To all people to whom these presents shall come, greeting:

Know ye, that I, Benjamin Rockwood, of Mendon, in the county of Worcester, and in the province of the Massachusetts bay, in New England, for and in consideration of the sum of twenty pounds, lawful money, to me in hand before the ensealing hereof well and truly paid by John Corbett, of Bellingham, in the county of Suffolk, and in the province aforesaid, physician; the receipt whereof I do hereby acknowledge, and myself therewith fully satisfied and contented; and thereof, and of every part and parcel thereof, do exonerate, acquit, and discharge him, the said John Corbett, his heirs, executors and administrators, forever; by these presents have given, granted, bargained, sold, aliened, conveyed and confirmed, and by these presents do freely, fully and absolutely, give, grant, bargain, sell, aliene, convey, and confirm unto him, the said John Corbett, heirs and assigns, forever, the privilege of keeping up and rebuilding and maintaining a dam upon my land, on the westerly side of Charles river, below the countrey road leading to Boston, on the place whare the old dam now stands, with the privilege of flowing my land above said dam, in order for any water works. To have and to hold the said granted and bargained premises, with all the appurtenances, privileges and commodities to the same belonging, or in any wise appertaining, to him, the said John Corbett, his heirs and assigns forever, to his and their only proper use, benefit, and behoof forever. And I, the said Benjamin Rockwood, for myself, my heirs, executors and administrators, do covenant, promise, and grant to and with him, the said John Corbett, his heirs and assigns, that before the ensealing hereof, I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same in my own proper right, as a good, perfect, and absolute estate of inheritance in fee simple; and have in myself good right, full power, and lawful authority to grant, bargain, sell, convey, and confirm said bargained premises in manner as aforesaid; and that the said John Corbett, his heirs and assigns, shall and may, from time to time, and at all

J & G. S. Gideon, printers.

times forever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated and discharged of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, jointures, dowries, judgments, executions, or incumbrances, of what name or nature soever, that might, in any measure or degree, obstruct or make void this present deed.

Furthermore, I, the said Benjamin Rockwood, for myself, my heirs, executors and administrators, do covenant and engage the above demised premises to him, the said John Corbett, his heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, forever hereafter to warrant, secure, and defend by these presents.

In witness whereof I, the said Benjamin Rockwood, have hereunto set my hand and seal, this sixth day of December, in the 33d year of his majestie's reign, A. D. 1759.

The words "now stand" were interlined before signing and sealing.

BENJAMIN ROCKWOOD. [SEAL.]

Signed, sealed, and delivered in presence of us,
NETHIAH CORBETT,
BETHIEH HOLBROOK.

WORCESTER, *ss:*

MENDON, *December ye* 7, 1759.

Benjamin Rockwood, the within named, personally appeared, and acknowledged the within written instrument to be his free and voluntry act and deed, before me,

NATHAN TYLER, *Justice of Peace.*

Worcester, Oct'r 26th, 1765.—Received and recorded with the records of deeds for said county, libo. 53, page 298.

Pr. TIMO. PAINE, *Reg.*

No. 2.

Joseph Corbett and wife—Deed to John Corbett, 1757, *rec'd July 4th* 1757—*rec'd Sept.* 30, 1758.

To all people to whom these presents shall come, greeting:

Know ye, that we, Joseph Corbett of Mendon, in the county of Worcester, and in the province of the Massachusetts bay, in New England, husbandman, and Deborah Corbett, the wife of him, the said Joseph Corbett, for and in consideration of the sum of fifty-five pounds, lawful money, to us in hand, before the ensealing hereof, well and truly paid by John Corbett, of Bellingham, in the county of Suffolk, and in the province aforesaid, physician; the receipt whereof we do hereby acknowledge, and ourselves therewith fully satisfied and contented, and thereof, and of every part

and parcel thereof, do exonerate, acquit, and discharge him, ye said John Corbett, his heirs, executors and administrators, forever; by these presents have given, granted, bargained, sold, aliened, conveyed and confirmed, and by these presents do freely, fully, and absolutely give, grant, bargain, sell, aliene, convey, and confirm unto him, the said John Corbett, his heirs and assigns, forever, a certain parcel of upland and meadow bottom, lying partly in Bellingham, in the county of Suffolk, and partly in Mendon, in the county of Worcester, on both sides of Charles river, bounded as followeth: Beginning at the northerly corner, near said river, being a stake and heap of stones; thence running to a bunch of white oak lands at the end of the ditch; then, with a direct line, to a white oak stand marked, and so on with the same direct line to the old fences; and from thence to a loped tree by ye grantee's land; and it is bounded southerly, on the said grantee's land, to the said river, and then across the said river; and it is bounded westerly in part on the said grantee's land, and partly on Eliphalet Wood's land to the said grantee's land; and it is bounded northerly on the said grantee's land, to the first bounds—the whole containing, by estimation, nine acors, be same more or less, as before described, together with all the waters and fences to the same belonging. To have and to hold the said granted and bargained premises, with all the appurtenances, priviledges, and commodities to the same belonging, or in any wise appertaining, to him, the said John Corbett, his heirs and assigns forever, to his and their only proper use, benefit, and behoof forever. And we, the said Joseph and Deborah Corbett, for ourselves, our heirs, executors and administrators, do covenant, promise, and grant to and with him, the said John Corbett, his heirs and assigns, that before the ensealing hereof, we are the true, sole, and lawful owner of the above bargained premises, and are lawfully seized and possessed of the same in our own proper right, as a good, perfect, and absolute estate of inheritance in fee simple; and have in ourselves good right, full power, and lawful authority to grant, bargain, sell, convey, and confirm said bargained premises, in manner as aforesaid; and that the said John Corbett, his heirs and assigns, shall and may, from time to time, and at all times forever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly have, hold, use, occupy, possess and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated, and discharged of and from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, joyntures, dowries, judgments, executions or incumbrances, of what name or nature soever, that might, in any measure or degree obstruct or make void this present deed.

Furthermore, we, the said Joseph and Deborah Corbett, for ourselves, our heirs, executors, and administrators, do covenant and engage the above demised premises to him, the said John Corbett,

his heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, forever hereafter to warrant, secure, and defend by these presents.

In witness whereof, we, the said Joseph and Deborah Corbett, have hereunto set our hands and seals, this twenty-ninth day of April, in ye thirtyeth year of his majestie's reign, A. D. 1757.

his
JOSEPH + CORBETT, [SEAL.]
mark.

her
DEBORAH + CORBETT. [SEAL.]
mark.

Signed, sealed, and delivered in presence of us—
DANIEL CHAPIN,
BETHIAH CORBETT.

WORCESTER, *ss:*

MENDON, *June ye 10th*, 1757.

Joseph Corbett and Deborah Corbett, the within named, each of them personally appeared and acknowledged the within written instrument to be their free and volentery act and deed, before me,
NATHAN TYLER, *Justice of Peace.*

BOSTON, *July* 4, 1757.

Received and entered with the records of deeds for the county of Suffolk, libro 90, folio 142, &c.
Pr. EZEKL. GOLDTHWAIT, *Regr.*

WORCESTER, *Sept.* 30, 1758.

Rec'd and entered in the records of deeds for ye county of Worcester, libo. XL, page 321.
Pr. J. CHANDLER, *Regr.*

No. 3.

Jones to Corbett.—Rec'd Octo'r 22d, 1765.

Know all men by these presents, that we, John Jones, of Bellingham, in the county of Suffolk, and in the province of the Massachusetts bay, in New England, yeoman, and John Corbett, of Bellingham, in the county and province aforesaid, physition, have agreed upon the bounds between our lands, and staked them as followeth:

Beginning at stake standing in a ditch, it being a corner of Jonathan Thayer, junr.'s land, and on the northerly side of Charles river, and running down strem of said river upon the said ditch, about twenty rods to a stake at the end of ye said ditch, and then turning and runing to ye sd. river, to a stake by ye bend of ye said river; and then bounded down strem upon the said river, to a maple stand marked by ye sd. river, about sixteen rods up strem from the

place where Mendon first town line can to the said river; and then turning northerly and runing with a direct line to a black oak stand, marked and standing in the aforesaid Mendon sd. line, and so on with ye said Mendon first line, to a two rod road.

To the above agreement, we, the above said John Jones and John Corbett, do bind ourselves, our heirs, executors, admin. and assigns forever, to stand to, abide by, and observe.

In witness whereof, we, ye said John Jones and John Corbett, have hereunto set our hands and seals, this second day of March, in the twenteth year of his majesty's reign, anno domini 1746.

JOHN JONES, [SEAL.]
JOHN CORBETT. [SEAL.]

Signed and delivered in presence of us—
WILLIAM RAWSON, JR.,
NOAH COOK.

WORCESTER, *ss:*

March ye 2, 1746–'7.

John Jones and John Corbett, the above named grantor, personally appearing, acknowledged the above written instrument to be there free and voluntary act and deed, before me,

DANIEL TAFT, *Justice Pe.*

BOSTON, *Octo.* 22*d*, 1765.

Reced. and entered with the records of deeds for the county of Suffolk, libo. 106, folo. 115, &c.

Pr. EZEKL. GOLDTHWAIT, *Regr.*

No. 4.

Holbrook to Corbett.—Recd. Octo. 22d, 1765.

To all people to whom these presents shall come, greeting:

Know ye, that we, John Holbrook and Eliphalet Holbrook, both of Bellingham, in the county of Suffolk, within the province of the Massachusetts bay, in New Land, husbandmen, for and in consideration of the sum of seven shillings, to us in hand, before the ensealing hereof, well and truly paid, by John Corbett, of Bellingham afoursd., yeoman, the receipt whereof we do hearby acknowledg, and ourselves therewith fully satisfied and contented, and thereof, and of every part and parcel thereof, do exonerate, acquit and discharge him, ye said John Corbett, his heirs, executors and administrators forever; by these presents have given, granted, bargained, sold, aliened, conveyed, and confirmed, and by these presents do freely, fully and absolutely give, grant, bargain, sell, aliene, convey and confirm unto him, the said John Corbett, his heirs and assigns forever, a certain piece or parcel of land in the township of Bellingham afoursaid, scituate on the easterly side of Charles river, and northerly from ye cuntry road leading to Boston, containing,

by estimation, thirty rod, be the same more or less, as the same is bounded—beggining at the sd. John Corbett's northeasterly corner, being a heap of stones by a read oak tree; thence runing southerly with a direct line, at a marked stands to a heep of stones in ye sd. Eliphalet Holbrook's westerly line, westerly and norwesterly on the sd. John Corbett's land to the first bound, being a noreast line. To have and to hold the said granted and bargained premises, with all the appurtenances, priviledges and commodities to the same belonging, or in anywise appertaining, to him, the said John Corbett, his heirs *heirs* and assigns forever, to his and their only proper use, benefit and behoof forever. And we, the said John Holbrook and Eliphalet Holbrook, for ourselves, our heirs, executors and administrators do covenant, promise and grant, to and with him, ye sd. John Corbett, his heirs and assigns, that before the ensealing hereof, we are the true, sole and lawful owner of the above bargained premises, and are lawfully seized and possessed of the same, in our own proper right, as a good, perfect, and absolute estate of inheritance in free simple; and have in ourselves good right, full power, and lawful authority, to grant, bargain, sell, convey and confirm said bargained premises, in manner as aforesaid. And that ye sd. John Corbett, his heirs and assigns, shall and may, from time to time, and at all times forever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly have, hold, use, occupy, possess and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated and discharged, of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entails, joyntures, dowries, judgments, executions or incumbrances, of what name or nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, we, the said John Holbrook and Eliphalet Holbrook, for ourselves, our heirs, executors, and administrators, do covenant and engage the above demised premises, to him the said John Corbett, his heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, forever hereafter to warrant, secure, and defend, by these presents.

In witness whereof, we have hearunto set our hands and seals, sixteenth day of May, anno domini 1735.

JOHN HOLBROOK. [L. S.]
ELIPHALET HOLBROOK. [L. S.]

Signed, sealed, and delivered, in presence of—
NICHOLAS COOK,
JOHN THOMSON,
JOSEPH WRIGHT, JR.

WORCESTER, *ss.*

MENDON, *May ye* 20, 1735.

John Holbrook and Eliphelet Holbrook, the within named grantors, personally appearing, and acknowledged the within written instrument to be their free and voluntary act and deed, before me,

DANIEL TAFT, *Justice Pe.*

BOSTON, *October* 22*d*, 1765.

Received, and entered with the records of deeds for the county of Suffolk, lib. 106, fol. 116, &c.

Pr. EZEKIEL GOLDTHWAITE, *Regr.*

No. 5.

To all people to whom these presents shall come, greeting:

Know ye, that I, David Hill, of Bellingham, in the county of Suffolk, and in the province of the Massachusetts bay, in New England, husbandman, for and in consideration of the sum of twenty-two pounds ten shillings, lawful money, to me in hand, before the ensealing hereof, well and truly paid, by Eleazer Hayward, of Bellingham, in the county and province aforesaid, husbandman, the receipt whereof I do hereby acknowledge, and myself therewith fully satisfied and contented, and thereof, and of every part and parcel thereof, do exonerate, acquit, and discharge him the said Eleazer Hayward, his heirs, executors, and administrators, forever; by these presents, have given, granted, bargained, sold, aliened, conveyed, and confirmed, and by these presents do freely, fully, and absolutely give, grant, bargain, sell, aliene, convey, and confirm, unto him the said Eleazer Hayward, his heirs and assigns forever, sundere parcels of land and swamp, lying Bellingham aforesaid: the first peace is a pine swamp, lying in partnership with James Smith, of said Bellingham, northerly from the barn which belongs to Hugh Hall, esqr.; southerly and easterly on ye s'd Hall land; and northerly on the land belonging to the heirs of William Hayward, deceased, the whole containing eleven acres; the one-halfe, a second part of s'd swamp, to ye s'd Eleazer Hayward, together with nine acres more, lying southwest from ye said barn, beginning northeasterly corner, being black oak tree, marked; then running southwesterly to a pine stand; then southerly to a stake; then northeasterly to a pine, marked; then to a small black oak, being the southeast corner; then to the first bound; and is bounded round on ye Hall's land, together with five acors of swamp lying on the easterly side of Charles river; and is bounded westerly on s'd river; southerly on the land of Eleazer Metcalf; easterly and northerly on the land of Issaac Thayer: to have and to hold the said granted and bargained premises, with all the appurtenances, priviledges, and commodities to the same belonging, or in any wise appertaining, to him the said Eleazer Hayward, his heirs and assigns, forever, to his and their only proper use, benefit, and behoof, forever.

And I, the said David Hill, for myself, my heirs, executors, and administrators, do covenant, promise, and grant, to and with him the said Eleazer Hayward, his heirs and assigns, that before the ensealing hereof I am the true, sole, and lawful owner of the above bargained premises, and am lawfully seized and possessed of the same, in my own proper right, as a good, perfect, and absolute estate of inheritance, in fee simple, and have in myself good right, full power, and lawful authority, to grant, bargain, sell, convey, and confirm said bargained premises, in manner as aforesaid; and that the said Eleazer Hayward, his heirs and assigns, shall and may, from time to time, and at all times forever hereafter, by force and virtue of these presents, lawfully, peaceably, and quietly have, hold, use, occupy, possess, and enjoy the said demised and bargained premises, with the appurtenances, free and clear, and freely and clearly acquitted, exonerated, and discharged of, from all and all manner of former or other gifts, grants, bargains, sales, leases, mortgages, wills, entailes, joyntures, dowries, judgments, executions, or incumbrances, of what name or nature soever, that might in any measure or degree obstruct or make void this present deed.

Furthermore, I, the said David Hill, for myself, my heirs, executors, and administrators, do covenant and engage the above demised premises to him the said Eleazer Hayward, his heirs and assigns, against the lawful claims or demands of any person or persons whatsoever, forever hereafter to warrant, secure, and defend, by these presents.

In witness whereof, I, the said David Hill, have hereunto set my hand and seal, this tenth day of August, anno domini one thousand seven hundred and forty-two, and in the sixteenth year of his majesty's reign.

DAVID HILL. [L. S.]

Signed, sealed, and delivered, in presence of us—

his
JOSEPH ✕ ROCKWOOD,
mark
his
JOHN ✕ ROCKWOOD,
mark.
JOHN CORBETT.

No. 6.

Know all men by these presents, that I, John Tompson, jr., of Bellingham, in ye county of Suffolk, and province of ye Massachusetts bay, in New England, weaver, for and in consideration of ye sum of ten pounds of money, to me in hand well and truly payed, by John Corbett, of Bellingham, in ye county aforsaid, weaver, whereof I do hereby acknowledge ye receipt, and myself therewith fully sattesfied, for one quarter part of a saw-mill, together with ye dam,

and all that appertains thereto, wich is all my rit in a saw-mill in Bellingham, standing on a river commonly coled Charles river, a litel below an old feald, in ye posseson of James Alby; and I do aquit to the above said Corbett, his heirs, executers, administratiors, and assins forever, ye above said saw-mill; and I, ye said John Tompson, for myself, my executors and administrators, shall warrant and defend, against all parssons whatsoever, ye above demised primeses, by theses presents.

In witness whereof, I have hereunto set my hand and seal, the sixt day of Januery, in ye ninth year of ye reign of our sovereign lord Gorg, by ye grace of God of Grate Britain, France, and Ireland, King, &c., in ye year of our Lord God 1723–'24.

JOHN THOMSON. [SEAL.]

Signed, sealed, and delivered in presence of—
JOHN GREENE,
JOHN CORBETT, jr.

No. 7.

Samuel Cook's deed of sale to Jno. Corbet, Nov. 9th, 1711.

To all Christian people to whom these presents shall come, Samuel Cooke, of Mendon, in the county of Suffolk and province of the Massachusetts bay, in New England, yeoman, sendeth greeting:

Know ye, that I, the said Samuel Cooke, diverse good and valuable considerations me thereunto moving, but more especially for, and in consideration of, the just value of six pounds, to me in hand paid by John Corbett, of said Mendon, yeoman, the receipt whereof I doe acknowledge, and myself therewith fully paid, satisfied, and contented, and thereof, and of every part and parcell thereof, doe acquitt, exonerate, and discharge him the said John Corbet, his heyrs, executo'ers, and adminis'rs, for ever; firmly by these presents, have given, granted, bargained, sold, aliened, enfeofft, and confirmed, and by these presents doe freely, fully, and absolutely give, grant, bargaine, sell, aliene, enfeofft, and confirm unto him the said John Corbet, his heyrs, execut'rs, admin'rs, and assigns, twelve acres of land, lying and being situate in said Mendon, between the easterly side of the river, known by the name of Second Bridge river, alias Charles river, and the roade leading from said Mendon to Medfield; which said twelve acres is a part of the great lott belonging to the ten acre right purchased heretofore by me of the said town of Mendon; the said twelve acres, be it more or be it less, butted and bounded, easterly, on lands now in the occupation of Benjamin Albee; westerly, on lands of John Cook, senior; and northerly and southerly, on common land. The said twelve acres of land, as above described and bounded, or however it shall be found butted and bounded in the booke of records to the town of Mendon aforesaid belonging, with all the trees, wood and un-

derwood, thereon standing, lying, or growing, with all rights, priviledges, and appurtenances thereunto belonging and appertaining, or which of right ought thereunto to belong and appertain; rights in town commonage, and unto divisions of lands allready made, or hereafter to be made, issued, or granted by the said town of Mendon, by any form or manner whatsoever, excepted—to him the said John Corbet, his heirs, executors, admin'rs, and assigns: to have and to hold, and by him and them, and to his and their alone and only use, benefit, and behoof, as a sure estate in fee simple, without any after claim, molestation, or disturbance, for ever to be holden. Furthermore, I, the said Samuel Cook, doe covenant, promise, and grant to and with the said John Corbet, his heirs, executors, and assigns, that I, the said Samuel Cook, am, at and untill the signing, ensealing, and delivery of these presents, lawfully seized of all and singular the above granted and bargained premises, as their true owner and rightfull proprietor, and that I have in myself true right, and lawfull strength and power, to make such ample and legall sale and disposall thereof; and that all and singular the above granted and bargained, and as above granted and bargained, are att the time, and untill the time of the signing, ensealing, and delivery of these presents, free and clear, and freely and clearly acquitted, exonerated, and discharged of, for, and from all and all manner of former gifts, grants, bargains, sales, bills, bonds, dowryes, thirds, or power of thirds, leases, mortgages, debts, arrests, judgments, executions, extents, or any other legall encombrance whatsoever, whereby the title, tenure, or peaceable injoyment of the above granted and bargained premises may be hurt or disturbed, or whereby he, the said Corbet, his heirs or assigns, may out of the same, or any part or parcell thereof, att any time hereafter forever, be evicted or ejected. Furthermore, I, the said Samuel Cook, doe covenant, promise, and grant to and with him, the said John Corbet, that I will at all times after the signing, ensealing, and delivery of these presents, well and truly warrant and defend the title, tenure, and quiet and peaceable injoym't and improvement of all and singular the above demised, from all manner of persons, by, from, or under me, claiming any right, title, interest, or demand in, to, or upon the premises, or any part thereof, forever; promising and obliging myself, my heirs, executors, and admin'rs, to doe, or cause to be done, what is further necessary to be done in the law for the more sure making and ratifying the title, tenure, and quiet possession of all and singular the above demised premises, to him, the said Corbet, his heirs and assigns.

In witness wereof, and of all and singular in this above instrument contained, I have hereunto set my hand and seal, this ninth day of November, MDCCXI, annoq. Regni Anne, Magna Brittannia, &c., Regina X'o. SAM^{L} COOK, [SEAL.]

Signed, sealed, and delivered in presence of us,

GRINDAL RAWSON,

SUSANAH RAWSON.

SUFFOLK, *ss:*

March 2*d*, 1712.

Samuel Cook came before me, the subscriber, one of hir majestie's justices for the countey aforesaid, and acknowl'dg. this instrument to be his volontarey act and deed.

JOSIAH CHAPIN, *Justice.*

BOSTON, *January* 10, 1717.

Received and recorded with the records of deeds for the county of Suffolke, libo. 32do, folio 120, &c.

Pr. JOHN BALLANTINE, *Reg'r.*

No. 8.

This are to cartefie, the New London society united for trade and commerce in Connecticut colony, in New Eng Land—or the treasurer or com't of s'd society; that John Corbett, of Bellingham, in the county of Suffolk and provence of the Massachusetts bay, in New Eng Land, in holder, is now porsesed of a tract of land and medow in Bellingham a four said, lying on the northerly side of Chals. river, where the saw-mill now stands—bounded souerly on s'd river, 85 rod esterly, on Mendon twone line, 160 rod norerly; part on the land of Joseph Thomson, part on the land of John Thomson, ser., and part on Benjamin Albee, junr., land, 120 rod weserly; partly on the land of Benjamin Albee, ju'r; partly on a highway to a stake, being the southeast corner of Jonathan Thayer land, 150 rod; thencs turning westerly, partly on s'd Thayer land, partly on Daniel Corbett land, have to s'd river 60 rod, ther being a four rod highway coressin s'd land, s'd land contain'g 100 acres; togeather with a 150 acres more lying in s'd Bellingham, on the easterly sid of Charls river, bounded norerly on the Cuntery road, 150 rod to a black oak tree; easterly on the land belonging to the heirs of Petter Holbrook, leat of Bellingham, decs., 60 rod; souerly, on the land of Eliphlet Holbrook, to a black oak tree, 40 rod; then easterly, on a highway 120 rod; souerly, on the land of Jonathan Thayer, 150 rod; norwest, part on the land belongin to the heir of Ebenezer Thayer, leat of Belingham, decesed, and partly on the land of John Cook, 80 rod; westerly, on the land of s'd *s'd* Cook, 60 rod; and north, on s'd Cook land, 30 rod; and westerly, partly on s'd Cook land, partly James Albee meadow, and partly on Joseph Rockwood land and meadow 104 rod; then north, on s'd Rockwood meadow, 15 rod; wesserly, said Chals river up to the above s'd road 100 rod, a highway corses on s'd land.

A land contain'g 150 acres.

We, John Thomson and Joseph Holbrook, selectmen of s'd Bellingham, veley the s'd land—the first hundred acres at four hundred pound, and the hundred and fifty acres at six hundred pounds; all the above s'd land at a thousand pounds.

As witness our hands. JOHN TOMPSON,
JOSEPH HOLBROOK, *Selectmen.*

MENDON, *January ye 12th*, 1732.

These may certyfie whom it may consern, that the two hundred and fifty acres of land specified in this instrument is on record in the propriaters' book of records of land for the township of Mendon, and is now in the posesion of John Corbett, of Belingham, as appears by deed and record.

Atest: THOMAS WHITE,
Proprietors' Clerk of Mendon.

BOSTON, *February* 10, 1732.

This may certifie whom it may concern, that on the 19 day of January, 1732, there was three deeds brought to be recorded with the records of deeds for the county of Suffolk; one deed whereof was from Benjamin Albee, senr., to John Corbet, of Bellingham, for fourteen acres and 91 rods of land in Bellingham; another of s'd deeds was from John Tomson to s'd John Corbet for eighty acres of land in s'd Bellingham; and the other deed was from Joseph Rockwood to s'd John Corbet for thirty acres of land in Bellingham aforesaid; and that sinse the said deeds were bro't to be recorded there has not been any conveyance of the s'd land made by s'd Corbet to any person whatsoever, on record in the said county of Suffolk.

Atts: JOHN BALLANTINE, *Reg'r.*

No. 9.

March ye 20th, 1731.—Laid out for John Corbet 3 acres of Richard Rockwood's eight division laid joyning to his other land on Sawmill plain, and is bounded southerly on ye road leading to ye sawmill; easterly, on Benjamin Albee land 16 rod, then running from ye norwest corner of s'd Albee land west 42 deg'rs north, to John Holdbrook land, then bounded on s'd land to ye road, it being a broken piece of land containing 4 acres and a half, one acre and a half allowed for bad land. Laid out by Thomas White, surveyor. Thomas Sanford and Jacob Aldrick, chainmen.

The same day as above, by the same committee, laid out to ye s'd Corbet six acres and a half eight division, laid joyning to his other land, east from his house, viz., 2 acres and half of s'd Richard Rockwood's and 4 of David Hows, and is bounded west on s'd land and north, part on Uriah Thayer's land, part on ye land of Benjamin Albee; east on the land belonging to the heirs of Petter Holdbrook, and south on ye cuntry road, it being a broken piece of land containing eleven acres and half and 20 rod, five acres and 20 rod allowed for bad land, and a two rod way next s'd Holdbrook's land.

A true copy from record, examined pr.
WM. TORREY, *Proprietors' Clerk.*

August ye 26th, 1744.—Laid out for John Corbet 70 rod of land joyning to his medow in the great medow bounding east on said

medow, north on the land of John Kilburn, westerly on a two rod road, southerly on the land on Jonathan Hayward, jr. Laid out by William Torrey, surveyor. Jacob Aldrick, chainman.

A true copy from record, examined pr.

WM. TORREY, *Proprietors' Clerk.*

August ye 26th, 1745.—Then laid out for John Corbet 17 acres and 54 rod of land, viz., nine acres and 30 rod fift division, and two acres and 64 rods sixth division, and two acres and 100 rod ninth division, three acres and 20 rod tenth division of land, laid together, joyning to his other land in the north purches, and is bounded south on s'd land, east on Hopkinton line, 64 rod north on comon, by a line of marked trees 56 rod to a heap of stones, being the northwest corner; thence, with a direct line, to the northwest corner of his other land, the whole containing 22 acres and 64 rod, five acres and ten rod alowed for bad land. Laid out by William Torrey, serveyor. Jacob Aldrick and John Corbett, chainmen.

A true copy from record, exam'd pr.

WM. TORREY, *Proprietors' Clerk.*

The contents of a five acre lott, being part of John Rockit's house lott, with all the rights and privilidges thereto belonging, or any wise appertaining, divided or undivided, now John Corbett's, as appears by a deed of gift baring date the tenth day of December, 1703, and acknowledged the day above before John Willson, esq. The first and second third and one acre of the fourth division of upland, with ye first and second division of medow and swamp lott lying and being within the township of Mendon, and laid out together upon the east side of the Second Bridge river, alias Charls river, upon the north side of the cuntry road to Medfield, bounded southerly upon s'd cuntry road, westerly partly upon s'd Second Bridge river, partly upon James Albee's medow, northerly upon ye afores'd James Albee's meadow, easterly upon common land laid out att severall times by Joseph White, Josiah Chapin, and Thomas White; nine acres more, being the full complyment of ye fourth division, lying upon ye south side of the aboves'd cuntry road, bounded westerly upon ye aboves'd John Rockit's medow, north upon s'd Rockit's land by a line of thirty-two roads east on common, by a dirict line of forty rods, southerly on common land, by a line of forty rods. Laid out by Thomas White.

The fift division, belonging to the aboves'd lott, being twenty-five acres, one part of it laid out att ye south end of ye Great medow, the northeast corner being a small pine, northerly on common, with a direct line seventy rod to a ceder tree, being ye northeast corner; easterly on comon, with a direct line 24 rod to a ceder tree, being the southeast corner; southerly on common, with a direct line seventy rod to a black oak tree, being the southwest corner; westerly on common, with a direct line eighty-eight rod to the northwest corner; the whole containing twenty-four acres and a

half—here being five acres, half allowance. May 19, 1707. By Thomas White, Samuel and Josiah Thayer, comitte.

Five acres more of s'd fift division laid out on ye east end of ye great medow, bounded as followeth: the southeast corner being a stake and stones; southerly on land laid out to James Albee and Josiah Thayer; fifty rod to a white burch, being ye northwest corner; westerly on comon, with a direct line twenty-fore rod, to a ceder tree marked, being the northwest corner; northerly on comon, with a direct line fourty-eight rod, to a stake and stones, being ye northeast corner; easterly, on Sherborn land, twelve rod to ye southeast corner, by Thomas White, Seth Chapin, and Sam'el More, comitte. June ye 5, 1710.

One acre more of s'd fift division laid out joyning to his other land by his house, bounded as followeth: southerly on ye cuntry road to Medfield, the southeast corner being a black oak tree easterly on comon, with a direct line one hundred and twenty-two rod, to a stake and stones, being ye east corner; northerly on common two rod to his other land; westerly on his other land, containing one acre and half *half* an acre allowance. Laid out June fifth, 1710, by Thomas White, Seth Chapin, and Samel More, committe.

Mendon, October ye 2, 1718.—Laid out for John Corbett his share of ceeder swamp, in beaver dam, ceeder swamp being ye sixth lott from ye northerly end of s'd swamp, being two rod, three feet and eight inches wide, and is bounded northerly on Nathaniel Rawson's swamp, ye side lines runing west twenty-three degr's south, and east and west on ye Holdbrook medow bottom; southerly on John Holbrook's ceder swamp, ye southeast corner being a stake marked with I. C., ye No. six. Laid out by Thomas White, Robert Evens and Jacob Aldrich, comitte.

November ye 18th, 1718.—Laid out for John Corbett twelve acres sixth division joyning to his other land, on ye east side Second river, on ye plain below Medfield road, half an acre lying in a narow slip between two peaces of his other land, eleven acres and half more at ye east end of s'd land part; part on Benjamin Albe's land, fifty-four rod, to ye southeast corner of his other land; south on comon, thirty rod, to a stake, being the southeast corner; easterly part on Jonathan Thayer's land; part on comon, fifty-four rod, to a stake, being ye northeasterly corner, northerly on ye way leading to John Thompson's, thirty-eight rod, to Benjamin Albe's land. Laid out by Thomas White, Robert Evens and Jacob Aldrich, comitte.

November ye 18th, 1718.—Then laid out for John Corbett half an acre of land of six division, on ye south side of the road near his house, buting upon a hyway of two rod wide, leading to John Thompson's eight rod; south upon Joseph Rockwood's land, twenty-five rod, to the cuntry road, a three pease. Laid by Thomas White, Robert Evens, Jacob Aldrich, committee.

September ye 29th, 1718.—Laid out for John Corbett ten acres and half sixth division joyning to his other land, on the south side the Great medow, itt being a broaking peace of land, being att the southwest corner of his other land; thence runing north five degrs. west, eighty rod, to a stake, being the norwest corner; then runing east, three degrs. north, to the norwest corner of his other land: then runing easterly, with a dirict line by the edg of a small ceder swamp, about sixty rod, to the southwest corner of another peace of s'd Corbett's land; then setting of two rod towards ye west; and then runing northerly eighteen rod to ye norwest corner of s'd land; then continuing s'd line, six rod, to a maple stand markt., being a corner; then runing easterly, forty-eight rod, to ye northeast corner of his other land—this land joyning two peaces of s'd Corbett's fifth division. Laid out by Thomas White, Thomas Thayer and Jacob Aldrich, committe.

A true coppy from record. Exam'd pr. William Torrey, proprietors' clerk.

November ye 29th, 1718.—Laid out for John Corbett fifteen acres of six division, joyning to his other land by his house, compossing, viz: one acre of s'd Corbett's swamp, bounded as followeth: south on ye road leading to Medfield, thirty six rod, to black oak stand marked, being ye southeast corner; then runing north, twenty degrs. west, one hundred and twenty-one rod, to Ebenezer Thayer's land; north on s'd land, thirty-six rod, to ye river west—part on s'd river, part on his other land—the whole containing twenty-five acres—ten acres allowed for bad land. Laid out by Thomas White, Thomas Thayer, Jacob Aldrich, commitee.

Mendon, October ye 8th, 1722.—Then laid out for John Corbett three acres of seventh division on saw-mill plain, joyning to his other land; on s'd land twenty-four rod norwest on John Cook; southwest on Ebenezer Thayer; southeast on Jonathan Thayer, a broaken peace of land, containing four acres—one acre allowed for bad land. Laid out by Robart Evens, Jacob Aldrich, Thomas White, committe.

A true copy from record. Exam'd pr. William Torrey, proprietors' clerk.

Mendon, October ye 8th, 1722.—Then laid out for John Corbet thirteen acres of seventh division joyning to ye northerly part of his land, near the south side of the Greate medow, beginning at a black oak tree, being his former westerly corner; then runing norwesterly, on comon, eighty rod in swamp, to a stake marked; then runing east 28 degrs. north on common, in swamp ground, sixty rod, to a stake marked, being a noreasterly corner; then south 33 degrs. east on comon, thirty rod, to his other land so bounded on all other parts on said land. Laid out by Robert Evens, Jacob Aldrich, Thomas White, committe.

A true coppy from record. Exam'd pr. William Torrey, proprietors' clerk.

Mendon, October ye 8th, 1722.—Then laid out for John Corbet four acres and eighty rod of land, s'd four acres of seventh division, and ye eighty rod of the sixth division, laid on the north side of the ceader swamp by ye Great medow, beginning at a stake, being Willm. Hayward's northeast corner; then runing east ten degrs., south on common, twenty rod, to a tree marked; then southeast on common, twenty rod, to his other land; then bounded partly on Willm. Sprague, and partly on s'd Hayward, to ye first bounds. A broken piece of swamp, containing four acres and one hundred and ten rod, allowed for bad land. Laid out by Robert Evens, Jacob Aldrich, Thomas White, com'ee.

A true coppy from record. Exam'd pr. William Torrey, proprietors' clerk.

February ye 7th, 1728–'9.—Laid out for John Corbet thirty acres of land, being eight division, laid joyning to his other land east from Bear hill, beginning at a heap of stones, being ye southwest corner; thence runing east, 2 degrs. north, sixty-one rod, to his other land; then on s'd land, twenty-two rod, to a wallnut stand mark't, being ye southeast corner; then north 2 degrs. west, sixty rod, to a heap of stones; then turning northwest full point, forty-seven rod, to a heap of stones, being ye northeast corner; then southwest full one point, seventy rod, to a heap of stones, being ye norwest corner; then south 2 degrs. east, forty-six rod, to the first bounds; the whole containing thirty-five acres and half; five acres and half allowed for bad land. Laid out by Thomas White, surveyor, Thomas Sanford and Nathan Tyler, com'ee.

A true coppy from record. Exam'd pr. Wm. Torrey, proprietors' clerk.

March ye 6th, 1731.—Laid out for John Corbet two acres eight division of land laid joyning to his other land on ye east side Second Bridge river, and is bounded north on s'd land west, on medow bottom, southern on John Cook's land 14 rod, and easterly on s'd Cook's land 31 rod, it being a broken piece of land laid for two acres by Thomas White, surveyor, Thomas Sanford and Jacob Aldrich, cheinmen; this land on Richard Rockwood's rights.

A true copy from record, examined

Pr. WILLIAM TORREY,
Proprietors' Clerk.

No. 10.

Copy of Rentham and Bellingham line, 1735.

The committe appointed to repair to the town of Bellingham, and make enquiry into, and get the best information by records or otherwise, respecting the west line of the town of Wrentham, so far as it affects the town of Bellingham, and to make report how the s'd line ought to be settled, report thereon as follows, viz't:

Pursuant to the order of the general court, the committee repaired to the town of Bellingham, and having heard and considered the

pleas, papers, evidences, and allegations of the agents and selectmen of said towns respectively, and having also viewed the ponds in the township of Wrentham mentioned in the grant of said town, (then called Wacomonupaog,) by the town of Dedham, are of opinion, that the bounds of the town of Wrentham, according to the true intent of their grant, ought to have been made by extending a line five miles westerly, from the westerly part of a pond, now called Blake's pond, (which pond the committee deemed to be the most westerly pond expressed to be within the situation of the lots); yet inasmuch as it appears that the bounds have been run otherwise by the selectmen or committees of Dedham and Wrentham long agoe, before Bellingham was a township, and since they were made a township, the selectmen or agents of the said towns of Wrentham and Bellingham respectively, did mutually agree upon and acknowledge one marked tree, being a great red oak marked on four sides, and standing about ten or twelve rods from Charles river, near the north end of the line, as appeared by evidence. The committee are therefore humbly of opinion, that as a final issue of all disputes between said towns of Wrentham and Bellingham, the bounds between them, at the westerly end of Wrentham, be henceforth stated and ascertained by a line drawn, so far as it relates to said towns, strait north and south, parallel with their east line from s'd marked tree.

In the name and by order of the committee.

SAM'EL THAXTER.

Nov'r 10, 1734.

In council, April 10, 1735.—Read, and ordered that this report be accepted, and the line between the towns of Wrentham and Bellingham be stated accordingly.

Sent up for concurrence.

J. WILLARD, *Secr'y.*

In the house of representatives, April 11th, 1735, read and concurred.

J. QUINCY, *Spk'r.*

Consented to. J. BELCHER.

A true copy, examined

Pr. THAD. MASON,
Dep't Secr'y.

It is supposed there is a mistake in *in* the dates of April 11, 1735, and April 10, 1735, and should have been Nov'r 10 and 11, 1734.

No. 11.

Report ab't Wrentham and Bellingham line, April 1735.—*Copy.*

The committee appointed to repair to the borders of the towns of Wrentham and Bellingham, and to state and determine some proper

boundary line between said towns with respect to jurisdiction, did, on the sixteenth instant. meet the selectmen or agents of those towns respectively at Wrentham, and with them proceed to the borders of said towns where the boundary line is controverted, and fully viewed the same, and found the bound trees therein, many of them anciently marked and lettered W on the east side, and D on the west side, having opened the same for that end, which bound marks have been often renewed, and are the same trees mentioned in perambulation of Wrentham and Bellingham, in the year 1722. The next day being attended by said parties, we repaired to the ponds in the scituation of the lots mentioned in the grant of Dedham to Wrentham, and viewed the same; and it evidently appeared to us that Millpond, so called, is the westermost pond in the scituation of the lotts. Afterward, we had also a full hearing of several pleas and allegations of the parties, and their evidences to support the same, and are therefore, of opinion, that the line hereafter stated and described, shall be and remain the boundary line with respect to jurisdiction between the towns of Werentham and Bellingham, viz't:

A line extending north to Charles river, extending from a certain black or red oak tree, anciently mark't on four sides, standing near the river, and from said black or red oak tree southerly, according to the line of marked trees often heretofore perambulated by the towns of Wrentham and Bellingham, untill the line comes to a large white oak tree standing on the side of a hill, being the southermost tree mentioned in the perambulation, mark't on four sides; and from thence to extend south, to the north bounds of Attleborough.

In the name and by order of the committee.

EDM'D QUINCY.

Boston, *March* 23*d*, 1735.

In councel, March 24, 1735.—Read and ordered that this settlement of the boundary line between the towns of Wrentham and Bellingham be recorded in the secretary's office, in the book of commisshion, &c., from this government, and that the s'd reported line be, and herby is, determined to be the dividing line or boundary between the towns of Wrentham and Bellingham, any former vote or order of this court to the contrary notwithstanding.

In the house of represent'ives, March 24, 1735, read and concur'd.

Consented to. J. BELCHER.

A true copy, exam'd

Pr. SIMON FROST, *Dep't Secr'y.*

A copy.

No. 12.

Petition, grant, and platt of Bellingham town—1719.—*A copy.*

To his excellency Samuel Shute, esq., capt. general and governour in cheiff in and over his majestye's province of the Massachusetts bay, in New England, and to the honourable counsel and house of representatives in general court conveened at Boston.

The petetion of the inhabitants of a tract of land belonging to Dedham, westward of Wrentham, and the inhabitants of a considerable farm adjoyning theretoe, and the inhabitants of a small corner of the township of Mendon, adjacent theretoe, (to the number of four families,) humbly sheweth:

That whereas the abovesaid inhabitants are scituated at a remote distance from the respective towns wheretoe they respectively belong, (viz:) the inhabitants of the town of Dedham, to the number of three and twenty families, are about twenty miles' distance from the town where they belong and do duty, and being very remote from the publick worship of God; and the inhabitants of the abovesaid farm, to the number of 13 families, being 6 or 7 miles' distance from the place of publick worship; and the inhabitants of Mendon aforesaid, being about 4 miles' distance: and considering our remoteness, and the inconveniences we labour under by reason of the same; and that the uniting and incorporating the abovesaid tracts together, and making of them a town, may put us into a way, in some convenient time, to obtaine the settellment of the ghospell among us, &c., (the uniting of the abovesaid tracts of land together will make a town of about seven miles long, and three miles and half wide); and further, considering that the inhabitants of the abovesaid tract of Dedham land, and the farmes, are already incorporated into a training company, and that they have littell or no benifit of town privilidges, or by having benefit of the schooles we do respectively pay to—the whole number of families belonging to the above tract being forty, and lands anough already laid out to accomedate 20 or 30 more—the inhabitants of Dedham land being voted off by the town for that end:

Our prayer therefore is, that your honour would graceously please to consider our difficult circumstances, and grant our petetion, which is—that the above tracts of land (as by one plate heretoe affixed and described) may be incorporated together, and made a town, and invested with town priviledges, that so we may be enabled, in convenient time, to obtaine the gospell and publick worship of God setled, and our inconveniences, by reason of our remoteness, be removed; granting us such dispence from publick taxes as in wisdom you shall think convenient; and in so doing you will grately oblige us, who are your humble petetioners. And for your honours, as in conscince we are bound, shall for ever pray.

Dated the 17th day of Nov'r, 1719.

John Darling,
Nicolas Cook,
Peletiah Smith,
Thomas Burch,
John Thomson,
Ebenezer Thayer,
Cornelius Darling,
Sam'll Hayward,
John Marsh,
Oliver Hayward,
Sam'll Smith,
Sam'll Rich,
John Thomson, jr.,
Isaac Thayer,
Ebenezer Thomson,
Richard Blood,
Joseph Holbrook,
Zurial Hall,
Daniel Corbit,
William Hayward,
James Smith,
Nicolas Cook, jr.,
Jonathan Hayward,
Seth Cook,
Sam'll Thomson,
Sam'll Darling,
Joseph Thomson,
Nathan'l Wetherby.

Inhabitants of Mendon.

John Holbrook,
Peter Holbrook,
Eliphalet Holbrook,
John Corbitt.—32

In the house of representatives Nov'r 26, 1719.—Read, and ordered that the prayer of this petition be granted, and that a township be erected and constituted, according thereuntoe and the plat above; provided they procure and settell a learned orthodox minister, within the space of three years next comming; and that John Darlig, John Thomson, and John Marsh, be impowered to call a town meeting, any time in March next, to chuse town officers, and mannage the other prudentiall affairs of the town.

JOHN BURRELL, *Speaker.*

Sent up for concurrance.

In councell, Nov'r 27, 1719.—Read and concurred—the name to be called Bellingham.

JOSEPH HILLER, pr. order.

Copy.—Attest: THOS. CLARK, *Dep'ty Secr'y.*

21. MARCH 13, 1664.

His majestie's instructions to us sayes:

You shall desire them that they deliver to you a draught, or map, of their boundes and limmites which they lay claime to, and that they inform you what pretenses or titles any of their neighbours lay thereunto, to the end you may the better understand all the pretenses and foresee what method to observe for the hearing their severall claimes and determinason thereof, in which you shall use all perswasions to agree all parties, and make no judgment of your owne as finall upon the boundes and limmites of the severall colonies, except by consent of parties, or that the right appeares by the boundes and limmites prescribed in the charter, or some grant by us under our great seale of England, without any contradision by some other grant from us, likewise under our great seal, and some pos-

session accordingly; or by some mutuall agreement between the persons interested, under their hand, and according to their custome used there in matters of that nature. In all matters of the boundes and limmites which have difficulty in term, and do not fall under the rules aforesaid, you shall reserve the judgment to ourself, making onely such a present temporary settlement as may preserve the peace of the country, till our further judgment and determination shall be made knowne to them, towards the forming of which you shall state the case and difference as clear as may be.

Ss: That we may prevent all mistakes in the king's business, though Colonel Nicolles, in July, and ourselves in Ffebruary last, desired that a map of your jurisdiction and limmites might be made ready, we now send you our desires, and the king's instructions to us in that particular, under our hands. Wee hope to be with you in the beginning of May, at the furthest, (if God bless us,) against which time we desire the map of your limites may be ready. We shall not trouble you to send any to show us your southern boundes, they being uncontraverted, and at so great a distance from you.

Wee have desired Cap'n Breedon to show you a copy of a letter brought to New York by a Dutch ship, from Holland, and leave the use to be made by yourselves.

Having no more to trouble you with at this time, we rest your loveing ffriendes,

ROBERT CARR,
GEORGE CARTWRIGHT,
SAMUEL MAVERICK.

NEWPORT, (on Rode Island,) *March* 13, 1664.

To our honoured ffriends the governor and counsel of his majestie's colony of Massachusetes.

This map or draught within mentioned, we desire may be made with all exactness possible, and with all speed convenient delivered to us, ffor without it wee shall neither well understand your boundes, nor be understood in discoursing of them.

RICHARD NICOLLS,
ROBERT CARR,
GEORGE CARTWRIGHT,
SAMUEL MAVERICKE.

22.—In 1643, Geo. Fenwick, of Hartford plantation, and who was one of the com'r for that plan'n at the meeting of com'rs of the U. Colonies, claimed Woronoco, and said it was without the line of Mass'tts patent.

May, or *June*, 1672.

In pursuance of the order of the hon. gen'l court, May 31, 1771, for running the south line of our patent further west from Connecticut river, I went from Springfield to Windsor, the 31 day of Octo.,

1671, having Mr. James Taylor with me for the artist, besides the rest of the company, which I had got ready the day before, we came to the house of John Bissell, against the old ferry place in Connecticut river, at or about the higher end of Windsor town, where *Nath'l Woodward and Solo. Saffery*, the former artists, left off, and there we begun; which was about half a mile from the river, and upon the rising of the hill over the way, on the west side of John Bissalls' house. We set our compass, and then measured directly west one mile, and at the mile's end marked a red oak tree, east and west, with the surveyor's mark O, and then set on M & M. 1671, I P. I—past on, went over a fence, came to the river, viz., Windsor riveret; ran thro' a little meadow, marked several trees in the range before, and some at the meadow, and one where a brook runs into the riveret, and another tree by the riveret side; and then, on the other side that river, past on from the first mile tree, marked as above, one mile more, where, for our second mile tree, we marked a great white oak in the line M., 1671, for Massachusetts, I. P. M. 2, for two miles—past on, still marking.

The report of the committee for running the south line, viz:

Province of the Massachusetts bay.

WRENTHAM, *Nov.* 28, 1709.

Pursuant to the order of the general court of the said province, of the 27th of August last past, I, the subscriber, with Maj. Thaxter, Capt. Chapin, Capt. Morse, and Capt. Ware, being a committee appointed to join with commissioners from the colony of Rhode Island, for renewing the south line, mett with the said commissioners, at the house of the said Capt. Ware, in Wrentham aforesaid, and declared to them the occasion of our meeting, and shewed and read to them a copy of the record of the running and settling the line by Maj. John Leverett, in the year 1671, and declared that we were ready to go with them and show them the said line, and to join with them in renewing it; but they answered us that they knew that line, but did not look upon it to be a true line between the said province and colony, according to the charters, neither did they account that there ever had yet been any such line regularly settled, and that they would not joyn with us in renewing that line, and thereupon we returned home.

Signed, JOHN CUSHING.

In the name and by order of the committee.

Which report was read.

[Vol. 9, p. 7.]

March 16, 1710.

Ordered, that the settlement of the partition line between this province and the colony of Rhode Island, contained in the above and three foregoing pages, be accepted and approved, and the

thanks of the court rendered to his excellency the governor and the gentlemen of this court that attended him, for their good service in effecting the same.

J. DUDLEY.

[Vol. 9, p. 97.]

June 5, 1719.

The committee appointed by two orders of this court, (as entered June 18 and November 22, 1717,) to run the divisional line on Rhode Island, reported as follows, viz:

We, the subscribers, being of the committee appointed and impowered by the governments of the province of the Massachusetts bay and the colony of Rhode Island and Providence Plantations, for settling the east and west line between the said governments, by virtue of the agreement *of the agreement* of the major part of the said committee at their meeting at Rehoboth, on the 22d of October last past, at which time the said line was fully settled and agreed, and by them directed to be by us run. Having met at the stake of Nathaniel Woodward and Solomon Saffry, on Wrentham plain, the twelfth day of May, anno domini 1719, in the morning, and computed the course of the said agreed line, and found it to be by the compass by which we ran west two degrees twenty-four minutes south, according to the variation of nine degrees from the magnet. We proceeded to run said line towards Patucket river, and proved our course by measuring the former lines run on either hand with Rhode Island and Connecticut. We erected an heap of stones on the east bank of said Patucket river, (being very high on that side from the water,) and marked a pine at about fifteen perch distant from said brook eastward, on the north of the land called Bascomb's land, and from thence crossing the rivers, continued our course west as aforesaid through the country, marking divers trees and making many monuments of stone in said line, by which it may be easily found hereafter. We carried it, by estimation, two miles west of Allom pond, where we erected a large heap of stones east of a small river, called Five mile river.

SAMUEL WILKINSON,
JONA. MUMFORD,
SAMUEL THAXTER,
JOHN CHANDLER.

Signed in presence of—
JOHN ARNOLD,
JAMES WARREN,
BANFIELD CAPRON.

Dated at said river, the 14th day of May, 1719.

In council, read and accepted. In the house of representatives, read and concurred.

Consented to. SAM'L SHUTE.

[Vol. 10, p. 360.]

1638, 6th day of the 7th month.—The town of Dedham is desired to spare two men, that are most fit, to go with Goodman Woodward and Goodman Johnson, (if he can spare time,) or another to be got in his room, to lay out the southermost part of Charles river. Mass. records, p. 228.

1650, 1 day, 4 mo.—Pehunke, Akumpum, Catsinnah Webacowett, and Masbonomett, do all affirm, that Chickalawbutts bounds did extend from Nishamogoguanett, near Duxbury mill, to Teghtacut, near Taunton, and to Nunehatesett, and from thence in a straight line to Wanamampuke, *which is the head of Charles river;* this they do all solemnly affirm saying, God knoweth it to be true, and knoweth their hearts. Dated 1 of 4th mo., 1650.

Witness, INCREASE NOWELL,
JOHN ELIOT,
JOHN HOAR.

Old colony records, vol. 2, p. 217.

1655.—Capt. Wm. Torrey and Capt. Richard Brackel, appointed to lay out the meadow land at Cohasset, according to former agreement, p. 200.

14.—*From Rawson to Hayward—Deed of sale.*

To all Christian people to whom this present deed of sale shall come:

William Rawson, of Braintree, in ye county of Suffolk, within his maj'tie's province of ye Massachusetts bay, in New England, gent., and Ann his wife, with William and David, sons of ye afores'd Wm. and Ann Rawson, for and in consederation of a valuable sum of money, to us in hand well and truly paid, at and before the ensealing and deliverry of these pre'nts, by William Hayward, of Swansey, senier, in the county of Bristol, in ye province of ye Maschusets aforesaid, shipwright, and Thomas Sanford, of *of* said Swansey, in ye county aforesaid, cordwiner, and Thomas Burch, of Bristol, in ye afores'd county, planter, ye rece'pt whareof, to full content and sattisfaction, we, ye s'd William and Ann Rawson, and William and David Rawson, do hereby acnowledge, and ourselves suficently sattesfyed, contented, and paid, and of every part and percel thereof do exonerate, acquit, and discharge them, ye said William Hayward, Thomas Sanford, and Thomas Burch, therre heirs, executers, and administrators, and every of them, forever, have given, granted, bargained, and sold, aliened, enfeofed, conceded, and confirmed, and by these presents doe give, grant, bargain, sell, alien, enfeofe, convey, and confirme unto them, the said William Hayward, Thomas Sanford, and Thomas Burch, their heirs, assignes, forever, a cartain percell or tract of land, lying and being scituate betwen Mendon, Sherbourn, and Dedham lands, in New England; which said tract of land is part of a tract of land that was purchased of Thomas Owassomag and his wife, some time since, of Natick,

by our honorable father and grandfather, Edward Rawson, esqr., dece'd, and by him made ours, by a deed of gifft, under his hand and seale, bairing date ye 7th day of September, ann. dom. 1687, reference whareunto had may more fully appeare; the said tract aforesaid containing upland and meadow, and is bounded with Sharbourne land notherly; with Charles river easterly; and on ye south with a straght line set at ye uper end of ye brush swamp, at ye river dividing ye swamp from ye meadow; ye said line running westerly one *one* hundred and twelve poles, to a black oake, marked, standing on high land, there being a descente from ye tree esterly; ye said line is marked out three, stands next ye black oake and popler, marked, standing about a foot from ye line southward; and on ye west with a stragt line, running from ye black oake parrallel with with Mendon line, to Shabourn line; ye line run betwen a seder samp and ye Ridge hill, through a scirte of ye seder swamp, estward in said line, betwen twenty and thirty poles; from ye black oake there is a stake sett, about six foot from a pine tree; estward from ye seder swamp is a little black oak, marked in ye line: ye s'd tract from Charls river upon Sharbourne line, is one mild and fifty-six poles; from Sherbourn line to ye black oake is tow miles, wanting four poles; from ye black oak to Charls river one hundred and twelve poles; and containgt eight hundred acuers, together with all ye woods, underwoods, trees, waters, watercoureses, herbige, feeding, &c.; as allso liburty, and for cuting and carting of such seder trees, standing or growing in ye seder swamp, both for themselves and thears, as may be sufficient for fencing the land which thay shall see cause to make use of fence, and for *and for* buildings, both for themselves and thears, of that tract of land wh'ch honored father and grandfather aforesaid dyed seised of; to have and to hold ye s'd tract or percel of land scituated and bounded with *all* all ye above mentioned premises, to them, the s'd William Hayward, Thomas Sanford, and Thomas Birch, thear heires, executers, administratters, and asignes forever, to ye only proper use, binefit, and behoefe of them, ye said William Hayward, Thomas Sanford, and Thomas Birch, their heires and executers, administraters and assigns forever. Allways provided, and so it is to be understood as the true intent and meaning hereof, and is mutually so agreed between ye s'd purchasers, that ye said William Haward is to have and enjoy one moety or full half part of all ye above granted and bargined premises, with ye appurteh'ces, to him and to his hears and assigens forever, and ye s'd Thomas Sanford and Thomas Birch equally to have and enjoy ye outher half part of ye land afores'd, with ye profit, priviligees, and appurt'ences thereof, to them, there heirs, and assignes forever; all *all* which s'd purch'ers, theare hears, and shall and my, by vertue of these presents, lawfully, readiely and quitely transfered and entei into, have, hold, use, occupy, possess, and enjoy all ye afores'd granted and bargained

premises, and every part thereof, free and clear, and freely and clearly acquitted and discharged of and from all and all maner of form-or and outher giffts, grants, bargains, sales, leasses, mortgages, joynter, doweryes, judgements, executions, entails, fines, forfeitures, seizures, and of and from all outher titles, troubles, charges, and incumbences whatsouever. And farther, ye s'd William Rawson and Ann his wife, and William and David Rawsons, doe heareby covenant, promise, grant, and agree, bind and oblidge themselves, their heires, executers and administraters, from henceforth and forever hereafter, to warrant and defend ye within bargained premises, with ye appurt'ences thereof, *of* unto ye said William Hayward, Thomas Sanford, and Thomas Birch, there hears and assignes forever, against ye lawful clames and demand of all and every person or persons womesever; and, at any time or times hereafter, to give and pass such farther and ample assurance and confirmation of ye premises unto them, ye s'd William Hayward, Thomas Sanford, and Thomas Birch, there heires and assigns forever, there and at their proper costs and charges, as shall or may be lawfully or reseanabul desired, advised, or reqired.

In witness whereof the s'd William Rawson and Ann his wife, and William and David Rawsons, sons as afores'd of ye s'd William and Rawson's, have hereunto set there hands and affixed there seals, this eighteenth day of December, anoe dome one thousend seven hundred, and in ye twelfth year of ye reign of our sovern lord William ye Third, king of England, &c.

The within mentioened Mr. William Rawson delivered to William Hayward and Thomas Sanford the tract of land specifyed in ye deed, by turf and twigg, and gave unto them a peaceable legate and a quiat possession of ye within written premaceses, on ye 12th day of December, 1701, annoq. regni regis Guliel.

Before me JOHN WILSON, *Just. Peace.*

Mr. William Rawson and Mr. Ann Rawson both personally appearing, acnowledge the within written instrument to be there act and deed me, John Wilson, justes pac, this neinth day of December, 1700.

SUFFOLK, *ss:*

Mr. William Rawson, jun'r, and David Rawson, both personally appeared before me, ye subscriber, one of his majgtie's justeses of ye peace for ye county afores'd, and did sign, seal, acnowledge this instrument thear act and deed, they both consenting to ye above writen promice this 11th day, w'ten 1701.

JOHN WILSON, *Justis Pac.*

29.—*Rockwood to Corbet.*

To all people to whom these presents shall come, I, Joseph

Rockwood, of Mendon, in county of Suffolk, in the province of the Massachusetts bay, in Newengland, husbandman, do send greeting: know yee that I, the s'd Joseph Rockwood, for and in consideration of the sum of five and fifty pounds, currant money of Newengland, to me in hand well and truly paid before the ensealing hereof, by John Corbet of Bellingham, in the county afores'd, practioner of phisick, the receipt whereof to full content and satisfection, have given, granted, bargained, sold, aliened, and confirm, and by these presents do fully, freely, and absolutly give, grant, bargain, sell, alien, and confirm unto him, ye s'd John Corbit, his heirs and assigns forever, a certain parcel of land and medow in Bellingham afores'd, containing by esteomation thirty acres, be the same more or less, scituate, lying, and being on the easterly side of Charls river, on the southerly side of the country road leading towards Boston, as the same is butted and bounded northerly partly on s'd road, and partly on the lands of the grantee; easterly, partly on the lands of Peter Holbrook, partly on a highway leading towards Lieut. John Tompson's; southwardly, partly on the land of Eliphelit Holbrook, partly on *on* the lands of the grantee, partly on the grantor's medow, where the fence now standeth; westerly, on said river, there being a highway referued through s'd land leading from ye s'd country road towards the above s'd John Tompson's, as may appear by record in Mendon town book; to have and to hold all the above granted premisses, with all the appurtanances, preveledges, and commodities to the same belonging, or in any kind appertaining, unto him, ye said John Corbet, his heirs and assigns forever, to his and their only proper use, benefit, and behoofe forever. And I, the s'd Joseph Rockwood, for me, my heirs, execut., admin'rs, do hereby covenant, promiss, and grant to and with the s'd John Corbet, his heirs and assigns, that before ye ensealing hereof, I am the true, sole, and lawfull owner of all the above granted premisses, and am lawfully seized and possessed thereof in my own proper right of a good, sure, and perfict estate of inheritance in fee simple, haveing in myself full power, good right, and lawfull authority to grant, sell, and convey the same in maner and form afores'd. And that the said John Corbet, his heirs, and assige shall and may by force and virtue of these presents lawfully, peaceably, and quiatly have, hold, use, ocupie, possess, and enjoy all ye s'd demissed premisses free and clear, and clearly acquited, exonerated, and fully discharged of and from all and all maner of other and former gifts, grants, bargains, sales, leases, mortgages, joyntues, dowers, and encumbrances whatsoever. Furthermore I, ye s'd Joseph Rockwood, for myself, my heirs, execut'rs, and admin'rs, do covenant and engage ye s'd demissed premisses unto him, the s'd John Corbet, his heirs, and assigns forever, hereafter to warrant, secure, and defend against all the lawfull claims or demands of any person or persons whatsoever.

In witness whereof, I have hereunto set my hand and seal the fifteenth day of March, anno domini 1725–'6.

his
JOSEPH ✕ ROCKWOOD.
mark.

Signed, sealed, and delivered in the presence of us—
JOHN FIELD,
THOMAS SANFORD.

SUFFOLK, *ss:*

MENDON, *April ye 11th*, 1726.

Joseph Rockwood, within named, passonaly appearing, acknowledged the above written instrument to be his voluntary act and deed.

Before me, JOSIAH CHAPIN, *Justice of Peace.*

BOSTON, *January* 19, 1732.

Received and recorded with the records of deeds for the county of Suffolk, libo. 47, folio 87, &c.

Pr. JOHN BALLANTINE, *Reg'r.*

42.—Letter from the general court of Rhode Island, Jan'y 8, 1751.

BOSTON, *June* 7, 1751.

SIR: His honor, the lieutenant governour, having communicated to the general assembly of this province a letter from the hon'ble governour Green, advising that commiss'rs from your colony had run a new line, differing from the line run by commiss'rs from both governments in January, 1710; and desiring that the general assembly of this province would signify their concurrence to this new line, I am directed to inform you that the said general assembly look upon the proceedings of your governm't to be unprecedented and unwarrantable, tending to disturb the peace of his majesty's subjects, and to expose the authors to the royal displeasure; and that this government are determined to maintain that jurisdiction and authority, according to the agreement aforesaid in 1710.

In council, June 8th, 1751. Read and accepted.
Sent down for concurrence.

SAM'L HOLBROOK, *D'ty Sec'y.*

In the house of rep'ves, June 8th, 1751. Read and concur'd.

T. HUBBARD, *Spkr.*

Consented to. S. PHIPS.

TO THOMAS WARD, esq., secretary of the colony of Rhode Island, to be communicated.

35.—*John Foster's deposition.*

John Foster, of Attleborough, aged sixty-nine years, testifieth and saith: That some years past he was imploy'd as a chainman on the part of this province, and Thomas Man, of Providence, on the part of the colony of Rhode Island, when the east and west

line between the said province and colony was run, in consequence of an agreement made at Roxbury some time before by commissioners of each government, (as this deponent was then informed,) and I well remember we met at Wrentham, and there was present on the part of this province Colo'l Pain, Colo'l Thaxter, Mr. Blackgrove, and Colo'l Chandler; and on the part of colony of Rhode Island, Colo'l Joseph Jenks, Capt. Wilkinson, and Mr. Jonathan Sprage, and Mr. John Mountford, surveyor; and I well remember that we began to run from a certain stake on a grate plain, on the south side of ye town of Wrentham aforesaid, a little south of where one John Hancock now lives, called Woodward and Saffrey's station; and from thence we run westward, according to agreem't, (as those commissioners said,) to Patuckett river; and as soon as we got over the said river, we erected a great heap of stones, which was called the northeast corner of the said colony; and the said Thomas Man and myself carried the chain to the town called Killingly, erecting monuments all the way as we went between this province and the said colony, so far as the said colony line extended.

JOHN FOSTER.

Province of the Massachusetts bay, in New England.

SUFFOLK, *ss.*

WRENTHAM, May 24th, in the 23rd year of the reign of his majesty King George the Second, anno domini 1750.

John Foster, esqr., above named, personally appeared, and made solemn oath to the truth of the above written deposition, to which he has affixed his name.

Taken in perpetuam rei memoriam.

Coram. { JOSEPH HEATH, *Just's of ye Quorum.*
{ JAMES BLAKE, *Just's Peace.*

Depositions relating to Woodward and Saffrey's Station, May 23, 1750.

Samuel Fisher, of Wrentham, in the county of Suffolk, aged fifty-five years, testifies and says, that about fifty years since the deponent saw some gen't appointed by this province to run a line from Woodward and Saffrey's station, on Wrentham great plain, being a little southward of a house in which now dwells John Hancock, then owned by his father Henry Hancock, and there they proceeded to run a line for the colony line, so called, and they run westward; that some years afterwards, as the deponent was plowing in a field, or lott of land, lying on said plain, adjoining to, and eastward of land originally belonging to Anthony Hancock, he was told by the said Henry Hancock that they were plowing up Woodward and Saffry's station; being in the same lott of land in which Elenzer Metcalf, herein after named, testifieth the said station to be.

SAMUEL FISHER.

WRENTHAM, *May* 23*d*, 1750.

Eleazer Metcalf, of Wrentham, in the county of Suffolk, aged sixty-five years, deposeth and saith, that he well knew a lott of land in said Wrentham, owned by Mr. Anthony Hancock, and also a lott of land owned by Deacon Samuel Fisher, deceased, both which lotts ly on Wrentham great plain; that he has known the said lotts of land for about fifty-five years past, said Hancock's lott lying to the southward of Fisher's lott; that the deponent laboured in both the said lotts as long since as fifty-five years; that the said Samuel Fisher often told this deponent, at that distance of time and since, that in a lott of land then unimproved, lying eastward of said Henry Hancock's lott, and adjoining thereto, (now owned by John Hancock,) stood Woodward and Saffry's station; that the same was a stake, seen by the deponent for some years afterwards, and that it was a few rods southeastward of the northwest corner of the s'd Anthony Hancock's lott, not exceeding eight or twelve rod; and the deponent is the more certain of the place from the following circumstances, namely, that there was a stamping place on a lott of land lying westward of said Deacon Fisher's lott, and adjoining thereto, being under a large oak tree, the stump of which still remains, and that it was a noted stamping place for horses, and that the said lott is now owned by said John Hancock, whose dwelling-house and barne now standeth thereon.

And further this deponent declares, that he perfectly remembers that the northwest corner of said Anthony Hancock's lott, and the southwest corner of said Samuel Fisher's lott afores'd, butted one against the other, saving as they are divided by a town road or highway; that said John Hancock ownes the said Anthony Hancock's lott, and is now owner of these lotts; that said Samuel Fisher's lott is now owned wholly, or at least the south part of it, by Isaac Blake.

And this deponent further declares, he has also heard said Anthony Hancock, his father Eleazer Metcalf, his uncle the said Samuel Fisher, and Ebenezer Fisher say, that the said stake was Woodward and Saffry's station or stake, and it was confirmed by the voice of other aged people in those days.

And this deponent further testifys and says, that ever since he can remember, and to the present time, the pond commonly called Whiting's mill-pond, and the streme running through the same in said Wrentham, has been called, and esteemed to be, the southerly part of Charles river.

ELEAZER METCALF.

WRENTHAM, *May* 23*d*, 1750.

Joseph Cowel, of Wrentham, in the county of Suffolk, aged seventy-three years, testifies and says, that many years since when Mr. James Taylor, of Boston, and other gen't set up a quardent in order to run a line for the south bounds of ye Massachusetts govern-

ment, that it was set up at a place called Woodward and Saffry's station, on Wrentham Great plain, that it was a little southward of the house in which John Hancock now lives, which house was formerly owned by his father Henry Hancock. That some years after, this deponent was imployed by the late Colo'l John Chandler, of Woodstock, and others, in running a line west from the place called Woodward and Saffray's station, and attended them on said line as far as Petuckett river; and this deponent further testifys and says, that he, and the ancient men of said Wrentham, have from time to time to this day, called and esteemed the pond, commonly called Whiting mill pond, and the stream running thro' the same to be the southerly branch of Charles river.

JOSEPH COWELL.

WRENTHAM, *May* 23*d*, 1750.

Eleazer Ware, of Wrentham, in the county of Suffolk, aged seventy three years, testifieth and saith, that sixty-five years ago at least, he has often heard his father and many other old men say, that Woodward and Saffry's station, so called, stood on Wrentham Great plain, that when Mr. Taylor and other gen't were appointed to run the south bounds of this province, they began at the said station, being at a place a little southward of John Hancock's house in which formerly lived Henry Hancock; that they run from the said station westward, this deponent being then one of their attendance; that some years afterwards when the said south bounds were run by a committee of this province, of which number the late Colo'l John Chandler was one, this deponent was improved as a chainman, and did actually carry the chain from Whiting's mill pond, so called, to the said Great plain, where it was then said that Woodward and Saffery's station stood.

And this deponent further testifies and says, that he, and the ancient men of said Wrentham, in his day, called and esteemed ye stream which runs through Whiting's mill pond, so called, in said Wrentham, to be the most southerly part or branch of Charles river.

ELEZER WARE.

WRENTHAM, 23*d day of May*, 1750.

Nathaniel Man, of Wrentham, in the county of Suffolk, aged seventy-two years, testifies and says, that he is well acquainted with the place on Wrentham Great plain, where Woodward and Saffery's station stood, being a little southward of the house where John Hancock now dwells, formerly owned by Henry Hancock, and that he has often heard (when he was a boy) the old men say that the said station was in the said plain. And further this deponent says, that when Mr. Taylor and others, commissioners on the part of this province, went on the line from the said station to Conecticut river, he went with them from Mendon to roind for and was imploy'd as an assistant therein. And this deponent further declares that ever since he was a boy, bothe he and the men of said

Wrentham of his age alalong have esteemed the pond called Whiting mill pond and the stream which runs thro' it, to be the southerly part or branch of Charles river.

NATHANEL MAN.

WRENTHAM, *May* 23*d*, 1750.

Jonathan Wight, of Wrentham, in the county of Suffolk, of lawfull age, testifieth and saith, that when the line of the southern bound of this province was run by a committee on the part of the said province about forty years since, he saw the said committee set up a quadrant at a place called Woodward and Saffry's station, on Wrentham Great plain, a little southward of the house where John Hancock now dwells, where his father Henry Hancock formerly lived. This deponant was then driving plow w'th his father, who told him the said committee were running the line of government from the said station, and this deponent hath often heard his father say that Woodward and Saffrys' station was on the plain aforesaid. And this deponant's father and he went with the said committee about half a mile on the said line.

JONATHAN WIGHT.

WRENTHAM, *May* 23*d*, 1750.

Province of the Massachusetts bay, in New England.

SUFFOLK, *ss.*

WRENTHAM, May 24th, in the 23d year of the reign of his majesty King George the Second, anno domini 1750.

Joseph Cowel, Eleazer Ware, Nathanael Man, Jonath. Wight, Samuel Fisher, and Eleazer Metcalf, above and *and* within named, personally appeared before us, the subscribers, two of his majesty's justices of the peace for the said county, unus quorum, and under solemn oath to the truth of the above and within written depositions, to which they have affixed their names, respectively.

Taken in perpetuam rei memoriam.

Coram. { JOSEPH HEATH, *Just. of ye Quorum.*
{ JAMES BLAKE, *Just. Peace.*

Memo. of line with Con't and R. I.—Octo., 1670.

Whereas this court have been informed that several disorderly persons are settled and planted upon the west side of Nipmuck river, about ten or twelve miles above Mr. Blackstones, which is apprehended to be within the bounds of this colony, it is therefore ordered, by this court, that the south line of this jurisdiction be continued from Nipmuck river, where it was left between Plymouth and this jurisdiction, and to run it abont twenty miles west beyond the said river; and cause the same to be marked sufficiently, either by markt trees, or heaps of stones where trees fall not in the line; and the persons appointed to do this are Major Genl. Leverett and Left. Joshua Fisher, with two or three other persons whom the

major general shall think expedient to carry the chain and mark the line. And this to be done and returned at the next court of elections, with signification, whether the people seated in those parts be within our limits or not. And if said com'tee find the said inhabitants to fall within our bounds, then the major general is ordered to take bond of two or three of the principal of them, to appear at the next court of election, to answer for settling upon land within this jurisdiction without the grant of this court.

Nov. 6, 1706.

Order for a committee to goe upon the line betwixt this province and Rhode Island, with his exc'ys letter to that government.

In council, Nov. 6, 1706.—Upon reading this day at the board a complaint, exhibited by the selectmen of Mendon, of encroachments and a claim made by the inhabitants of Providence, on pretence of an Indian deed, to near halfe the township of Mendon, and other lands lying within this province.

Ordered, that Nathaniel Byfield and Nathaniel Payne, esqrs, Mr. Nathaniel Blagrove, Major Samuel Thaxter and Capt'n John Ware, or any three of them, be a committee to goe upon the ancient stated line of the boundary betwixt this province and the colony of Rhode Island and Providence Plantation, to the extent of the late colony of the Massachusett's bay, according to the grant and royal charter of this province; and to renew the bound markes where there shall be need.

And that his excellency the governour be desired to write to the government of Rhode Island, to acquaint them of this court's appointment of a committee for the service aforesaid, that they may appoint persons, on the part of that government, (if they think fit,) to attend at the time and place to be agreed upon by ours, to see and take knowledge of our line, that their government may give the necessary orders to restrain their people from makeing any encroachm'ts or disturbance.

The said committee to make report of their doings to this court, at their next session, after they have performed the said service.

JSA. ADDINGTON, *Sec'y.*

Sent down for concurrence.

In the house of representatives, Nov'r 6, 1706.—Read twice, and pass'd a concurrence.

THOMAS OAKES, *Speak'r.*

Nov'r, 1707.

Order respecting the bounds with Rhode Island.

In council, 4th Nov'r, 1707.—Upon a motion from the general assembly of the colony of Rhode Island, &c., by their letter of the 29th of Octob'r past, proposeing that there be committees ap-

point'd by both governm'ts for the renewal of the bounds betwixt this province and that colony; also recommending it, that the persons of each governm't bound over to answer for trespasses committed be discharged.

Ordered, that the persons belonging to Rhode Island, being under recognisances to her maj'ty's courts here, on the head above-s'd, be discharged; in confidence that the government there will do the like by ours—and her majesty's justices of the courts within this province are directed accordingly.

Sent down for concurrence.

JSA. ADDINGTON, *Sec'y.*

In the house of representatives, Nov. 5.—Read and concurred.

JOHN BURRILL, *Speak'r.*

Report on Govern'r Green's letter, June 5, 1751.

The committee appointed to take under consideration the letter from the governour of Rhode Island, and the papers accompanying it, and to make report, having attended the service, are of opinion—

That the proceedings of the colony of Rhode Island are without precedent, and altogether unwarrantable, and tending to disturb the peace and quiet of his maj'ty's subjects.

The committee are therefore of opinion that a copy of said letters and papers be forthwith authenticated and transmitted to Mr. Agent Bollan; and that his hon'r the lieut. governour, with the advice of the councill, be desired to give orders to all officers, civil and military, to continue in the exercise of their power over all his majesty's subjects within the territory so unjustly challenged by the said colony of Rhode Island.

All which is humbly submitted.

P. order of the committee. JOHN CHANDLER.

In council, June 5, 1751.—Read and accepted, and further voted that this committee prepare the draught of a letter to Govern'r Green, in answer to his letter above mentioned; as also a letter to Mr. Agent Bollan on the same subject. Sent down for concurrence.

J. WILLARD, *Sec'y.*

In the house of representatives, June 5, 1751.—Read and concur'd.

T. HUBBARD, *Spk'r.*

Consented to. S. PHIPS.

Letter to Gov'r Cranston.

Boston, 6 *November*, 1706.

S'r: The general assembly of this province, now sitting, have acquainted mee that they have before them a complaint from the town of Mendon, that they are disturbed in their improvements, and

otherwise, by some of the inhabitants of Providence, upon pretence of title to lands lying within this province, and particularly those that are assigned to the town of Mendon aforesaid; and have desired of me, thereupon, that certain commissioners may be sent to review the antient line of this province, settled sixty-four years since by sworn and approved surveyors; and accordingly Nathan'l Byfield and Nathan. Payne, esqr's., Mr. Nathan. Blagrove, Major Sam'l Thaxter, and Capt'n John Ware, or any three of them, are appointed and impowered to review and run the said line according to the antient boundarys and marks, without the least alteration thereof, saving in all difficult places where the line is hard to be found, that they open and adde to the marks, stakes, and heaps of stones, what is necessary to make them more apparent. And I have thereupon directed Colonel Byfield to appoint the time and place of the meeting of the said gentlem'n commissioners, and also to give your honor a letter signifying the place, so that, if you please to, you may direct any gentlemen of your colony to see the said lines upon which your Providence Plantation are adjoining, that there may be no further complaint nor hindrance of improvements, neither on your part nor on the part of this province. If this notice do purport the general assembly or any other court of his majesty's colony under your government, you will please to give it, that the proceedings may be open, and of the better service and effect for the ease and satisfaction of the borderers on both sides.

I am, sir, your very humble serv't,

J. D.

Petition of Mendon ab't Rhode Island molestations, 1705.

To the honourable General Court now sitting in Boston, September 5, 1705.

The complaint of the select men of Mendon, on the behalf of s'd town, humbly sheweth: That our town having heard a report of a claime made by the town of Providence to a considerable tract of land, near half our township, and more lands within our province by far than our township contains, by virtue of a deed from the Indians, sachems of the Narrhaganset countroy, and that they were laying out s'd tract, and had chosen a committee to treat with our town about our interest in s'd tract; our town took notice of the same, so farre as to choose a committee to treat them, on purpose to gain what light we could of the foundation their claims stood upon; and upon a meeting with them, we understood (tho' our committee could gaine no proper information from them) that they claim from two Narrhaganset sachems, and are by deed to run twenty miles west up into the country, from an hill below the cove in the old town of Providence, called by them Fox hill, and from thence a north line to Puttukkot river, without limits, which north line we suppose will reach above Worcester. Wee thought it our

duty to lett this honourable court understand, so far as we can, this claim, and pray we may be informed what our duty is, and what course we must take to defend ourselves from them who are resolved to lay out our lands claimed by them, fearing lest it may tend to the breeding quarrells, which may have an uncomfortable issue, our town have chosen Capt. Josiah Chapin, esqr., to bring this our complaint, and to wait such an answer as may informe us what is further to be done by y'r honor's humble servants.

JOHN DARLING,
JAMES G. LOVET,
SAM'L READ,

June 26, read and committ'd to ye comm'tte for petitions.

September 15*th*, 1705.—*In council.*

Upon reading the complaint of the select men of Mendon, setting forth that the inhabitants of Providence go about to intrude upon the lands of this province, and particularly upon the townships of Mendon, in running lines, &c.

Ordered, that the selectmen of Mendon doe seasonably forbid them, and if, notwithstanding such warning, they doe persist, that then they deface the marks by them made, and use prudent methods to apprehend the ringleaders, and comit them to custody to answer their unjust and irregular proceedings.

In the house of representatives, August 8, 1706.

In answer to the petition on the other side:

Ordered, that his excellency the governor be desired to write to the government of Rhode Island, and acquaint them of the trespasses comitted by the inhabitants of that colony upon this province, and the great damage that may probably ensue through mistakes about the line between this province and the s'd colony, and desire them to appoint a committee to joine with a committee appointed by this court, to run the line and settle the boundaries between this province and the s'd colony, so far as the late colony of the Massachusetts bay extended, according to the charter of this province.

That Nathaniel Byfield, Nath'l Payne, esqrs., Nathaniel Blagrove, Major Samuel Thaxter and Capt. John Ware, or any three of them, be a committee for the affaire afores'd, and make report of their doings to this court, at their first session after they have performed the s'd service.

Sent up for concurrence.

THOMAS OAKES, *Spea'r.*

In the house of representatives, Nov. 5, 1706. Ordered, that the above written vote be revised and sent up for concurrence.

THOMAS OAKES, *Sp'r.*

Nov'r 6, 1706, read in council and not agreed.

JSA. ADDINGTON, *Secr'y.*

1671.—In pursuance of the hon. general court's order of the 11th of Octo., 1670, for the running of the south line further west from Nipmuck river, I went from Boston, the 2d of May, 1671, at evening, to Dedham, to call Lieut. Joshua Fisher and the company for the work; himself not being well, he had provided an artist for the work—Francis Taylor. Upon the third day we went from Dedham, and before night fell with the river, and from the river side with a great white oak upon the ground, which was blanched and had the surveyor's mark upon it, O, marked with a marking iron; from that, steered west by a meredian compass, allowing nine degrees variation, we came to a marked tree blanched, had the letters IL and IF therein cut with a marking iron, over which I had it blanched, and set IL 1671 with a marking iron; went to the river, and so down the same to pass the river about a mile and a half, we came to a place where the river parted, so that there was a small island, at the lower end of which we passed over to the point of the island, and so passed that into the main river, where, though the stream was quick, yet not very deep, we passed over, and so went up the river until we came into the line against the marked tree on the east side, and upon a hill set a stake, our first station, and set against the stake divers flat stones, one hundred and ten rods from the river.

The next morning past on the line, one hundred and forty rods from the stake, blanched, east and west, a black oak and marked it O, the running line; blanched the north side M, for Massachusetts, and IL 1671; past on sixty rods, marked a great white oak, east and west, O, north side M, IL 1671; so past on and marked several trees in the line, east and west, till we came to a high hill, which is a rocky hill, and called Prospect hill, marked a small pine, east and west, O, which is three miles thirty-two rods from the river; six rods further, raised a heap of stones in the line, and blancht a small shrub pine by them; past on, blancht the trees at the miles, and marked a large pine, and on the north side, under the M., IIII strokes, four miles; past on and marked several trees, and came to a great pine, marked with IIIII strokes; forty rods forward, we came to a cros marked line, which ran southwest and northeast. In this first five miles, we headed a miry meadow and two small miry sqamps; past on about sixty rods, and came to a brook, going down to it a steep hill, and as soon as we were over upon a sand bottom, there was a great white oak; we marked it, past on and crost that brook in two branches, and white oak, and presently came to a river, deep and miry; by the river side marked a great tree; past on forty rods, and met with the same river, not passable, so we set off, north sixty rods, and run the line west three hundred rods, and there passed the same river. Had we kept on without setting off, we must have past it, in the three hundred rods, twice more. We having past the river, a good bottom, swift and very deep, we took off our set off, and in the right line marked a white oak; ran the line west one hundred and sixty rods, fell in with the

same river, past it, and upon the hill, which is steep going up, there is a great white oak, which we marked; it had old marks upon it; then past thickets, blancht; and marked several trees, marked a black oak, marked as with a running line, so on the north side, MVII; past on, came thro' the thickets, and over a small plain hill came to a great black oak, eight miles and forty rods, marked as the running line, so on the north side, MVIII; a little to the northward of this tree, there is a pond fair open to view; past on to a white oak, by a miry swamp, and blancht several trees in the way, so on to a crochet maple, marked it with the line mark, and on the north side, being ten miles, M and X.

The houses erected by Inman and his sons are a mile and a half or two miles without our south line. Upon May 17th, one who said his name was Thomas Allin, and lives at Providence, came to me at Boston, and told me that he and Inman had purchased land of the Indians, part of which tract lay in our bounds, as the line was run. He said he purchased it of Philip, the Sagamore—desired to know if they might enjoy it, submitting to the government, which he desired. I told him he must have his answer from the gen'l court, but he must know it was against law for any one to purchase land, in our colony, of the Indians, till they obtained leave of the gen'l court. He asked if it would be a tresspass to fell trees? I told him it would. I asked him if he knew of a line which ran southwest and northeast, that was marked about five miles from the river? He said it was the line of the Indian purchase, as he supposed.

This return made 3d of June, 1671.

JOHN LEVERETT.

Accepted by the court, and ordered to be recorded.

S. Phips to James Blake, esqr.

Boston, *June* 17, 1751.

Sir: The government of Rhode Island having lately set up a new claim to part of the townships of Wrentham and Bellingham, the inhabitants of which are included in the county of Suffolk, and there being some reason to apprehend that the said government will attempt to exercise jurisdiction over the said inhabitants, you are therefore required, together with other his majesty's justices for s'd county, to take especial care that all the inhabitants comprehended in said claim continue in the peaceable subjection to the laws of this province, and in due obedience to the authority with which you are vested over them.

Expecting your compliance, I remain, sir, your assured friend and servant,

S. PHIPS.

James Blake, esqr.

25 copies from the town books of Bellingham, speaking of "*Charles river.*"

"November the 14th, 1718.—Laid out for Samuel Thompson eight acres of third division, in Dedham, *near Mendon*, joyning to his other land on the *east side of Charles river*, bounded west on s'd land, south Josiah Thayer's land, eighteen rod, to a heap of stones, being the southeast corner; thence running north six degrees west, to his other land.—Laid out by Thomas White, John Darling, John Thompson, committee."

"July the 6th, 1717.—Thirty-two acres of Josiah Thayer, 3 devision of land, in Dedham, *near Mendon*, laid out for Ebenezer Thayer, bounded west on his other land eighty rod, south on his other land 64 rod, each on comon, 80 rod *to Charles river, north on said river* 64 rod to his other land.—Thomas White, John Thompson, John Darling, committee."

"The committee of the *propriators of Mendon, and of that part of Bellingham* that was Dedham, being chosen by the propriators for that end, did, on the sixth and seventh days of April, A. D. 1761, *perambulate* and renew the bound mark on the line between said propriators of said towns, as follows, viz: began at a stump and stones *near Charles river*, northerly of Elisha Bullard's house, which was a great white oak tree called Dedham tree;" "thence runs south six degr. and half west, by the needle, 327 rod unto a stump and stones in Moses Thayer's land, which was a great white oak tree named *named*, in Dedham, book 1704; thence south seven degrs. and half west, 162 rods, to an elm tree, in Nathaniel Thayer's inclosure; thence south, seven degrees and half west, 159 rods, to a heap of stones round a stump, on the plane near Quick streem, the pine being all the stump, (the three white oaks and the walnut not to be found;) thence south 6 degrs. and a quarter west, 245 rods, to a heap of stones on a hill, at the root of a pine which is down, being south of Quick stream; thence south seven degrs. and half west, 100 rods, to a pine blown down on a hill—there we erected a heap of stones; thence south 8 degrs. west, 112 rods, to a black oak tree, south 6 degrs. and quarter west, 105 rod, to where a great white oak stood, westerly of Nicholas Cook's house—there we erected a stone heap where the s'd tree stood; thence south six degrs. and a half west, 100 rods, to a pine down there—we marked a small white pine about 2 yards south of that down; thence south 7 degrs. ½ west, 39 rods, to a white oak west of a pine swamp; thence same point, 107 rod, to a black oak at the south end of the same swamp; thence south 6 degrs. and ½ west, 35 rods, to a grey oak tree north of boog on a crambry hearth; thence south 10 degrs. west, 88 rod, to a pine tree at the west end of a ridge at Cumberland line; thence on Cumberland south 8 degrs. and half west, 133, to a black oak stump with stones on a ridge, which was a black oak with stones at the bottom; thence south 7 dgrs. ½ west, 134

rods, to a black oak near Peter's river, same point, 7 rod, to the bank of s'd river where we mark two small white oak stands—the north white oak not to be found.—Nathan Thayer, John Corbett, Samuel Read, committee of Mendon propriator; John Metcalf, Ebenezer Thayer, Jonathan Thompson, Cornelius Thayer, committee of that part of Bellingham that was Dedham propriator.

The afores'd perambulation being read at a propriator's meeting, and excepted the same, and ordered that it shall be put on record, with the two attested coppys from Dedham book.

"Dedham grant, inhabitants petition the general court to ratify to them and theirs, and a former grant of a plantation above the falls. The general court granted, the 10 of the 7th month, 1636, the above petition, as follows:

That the above petitioners enjoy all that land on the *easterly and southerly side of Charles river*, not formerly granted to any other town or particular person; and also to have five miles square *on the other side of the river*. That the town shall bear the name of Dedham.

May 28, 1761.—Extracted from Dedham book of records.

WILLIAM AVERY, *Town Clerk.*

Recorded June 1, 1778, by John Metcalf, clerk of the propriators' land in Bellingham, that was Dedham."

BELLINGHAM, *January 4th*, 1844.

I hereby certify that the foregoing is a true copy of record.

FRANCIS D. BATES, *Town Clerk.*

"Dedham, near Mendon.—Laid out to Cornot Josiah Thayer, on the first dividant, 20 acres, and joyning to it, of the second dividant, 125 acres; the whole is 145 acres, *beginning at Charles river*, thence running S. E. 134 poles, by marked trees, to a stake; *thence by Wrentham line*, 154 pole, to a stake; thence N. W. 168, to a stake; and thence, on a square, to said river, and *so by said river* to the first station; here is 10 acres of it allowance for ways and bad land.—Laid out June 1, 1714. By Jno. Ware, secretary; John Thompson, John Darling, committee.

February the 14.—Laid out for Josiah Thayer nine acres and three-quarters of the third division of land in Dedham, *near Mendon*, joining his other land, *on the south side Charles river*, near Sadil Back hill, bounded south on s'd land sixty-four rod, being the whole breadth of said land; continuing the west line thirty rods to heap of stones on a rock, being *being* the norwest corner; then running parilell with s'd land forty rod to a stake and stones, being the northwest corner; thence with a direct line to the north east corner of his other land.—Laid out by Thomas White. John Thompson, John Darling, committee.

Dedham, April the 14, 1716.—Laid out to John Thompson, jr., eleven acres and half of land, and as it is bounded by *Charles river*

northeast thirty pole, and on comon land southwest sixty pole; thence a line north west and by north forty-six pole, and so straight to his own land, and *northwest from said river*, by his own land, and more at the west end of his land, to make up his complament, four acres and half, in which there is allowance for a way and bad land; it is bounded by *s'd Charles north*, and his own land east, and a straight line forty-eight pole from his own land *by river westward;* the allowance one acre and half. John Ware, survey. John Darling, John Thompson, committee."

Dedham, June the 12th, 1714.—"Laid out to Joseph Holbrook in the first division 52 acres, to which is laid 28 acres on the second division, *the whole is bounded by Charles river*, and on common on all other parts, beginning at s'd river, and then running east and by north 64 pole; thence from a small burch marked wanding on a rock 160 pole, to a white oak marked, and thence west and by north 3 degrees *southerly to s'd Charles river*, being 96 pole.

By JNO. WARE, *Survey.*

John Thompson, John Darling, committee.

"September the 29th, 1729.—Laid out for Joseph Holbrook thirty-two acres of land, viz: 28 acres 3 division, one acre first division, and 3 acres fourth division, laid out *on the east side Char'es river, and is bounded west on s'd river*, 26 rod south, part on the land of Nathaniel Hunting, and part on common 24 rod, runing from the northeast corner of s'd Hunting's land, east 15 degr. north, to a stake near Wrentham, prefered line; then bounded east on said line to Hew Hall's land, and *bounded north on said Hall's land to Charles river*, the whole containing 34 acres and half, two acres and half allowed for bad land and a four rod way; was s'd land laid

By THOMAS WHITE, *Surveyor.*

John Thompson, Joseph Holbrook, committee."

"October the 4th, 1714.—Laid out to John Hunting, *in Dedham, near Mendon*, twenty-eight acres in first division, and twenty-eight acres in the second division, *the whole is bounded by Charles river westward*, and by Joseph Holbrook in part, and Chickering house in part, and common land in part, one hundred and thirty pole to a stake and heap of stones; thence northward, by marked trees seventy-two pole to a stake and heap of stones; thence westward, by marked trees *to s'd river.*

JNO. WARE, *Survey.*

John Thompson, John Darling, committee."

"November the 14th, 1714, *in Dedham, near Mendon.*—Laid out to Serg't John Thompson, thirty-nine acres in his first division, in the seven hundred acres, bounded by Capt. Scot and Mr. Jenks north, two hundred and eighty pole, the line *east and west*, and on Sam Chickering south, and *on Mendon line* twenty-two pole and half, and on common land east, and more and more of the second

division, five acres at the east end, of the same breadth joyning to the former, and extending forty pole east, bounded by comon north and east, and on the above s'd Chickering south; and more of the second division *near Charles river*, thirty-seven and half with two acres allowance, bounded by Cornet Thayer, southward, sixty pole; thence northward, a line to Chickering house, comon land east, and on Joseph Holbrook north, *and on Charles river west.* October 14th, 1714. Jno. Ware, servey. Jno. Thompson and John Darling, committee. More laid out to Serg't John Thompson, six acres in first division, *bounded by Charles river* against his house lot northeast, and a line of marked trees southeast, sixty pole to a stake; thence to a marked pine, and a strait line to the corner of Cornet Thayer's swamp, on *Charles river.* Laid out April the 4th, 1715."

BELLINGHAM, *January 4th*, 1844.

I hereby certify, that the foregoing is a true copy of record.

FRANCIS D. BATES, *Town Clerk.*

June the 27th, 1717, *in Dedham, near Mendon.*—Laid out for Serg't John Thompson, three acres of second devision, on the *south side Charles river*, on both sides of *a spring brook*, runing into s'd river, a pine tree being the south east corner; thence runing west twenty dgs. north, forty-four rod, to a stake, being the northwest corner; thence runing south twenty dgr. west, eleven rod, to a stake, being *being* the southwest corner; so continueing eleven rod wide, forty rod long. By Thos. White, John Darling, John Thompson, committee.

June the 26th, 1717.—Laid out for Mr. Josiah Dwight, *in Dedham, near Mendon*, one hundred and thirty-seven acres of land, of the first division of land, with allowance for a four rod highway cross it, *bounded east on Wrentham line*, the southeast corner being a stake, twenty-three rod and three quarters from a double black oak marked in Wrentham line; *thence runing west thirteen dgr. and half south, by a line of marked trees home to Charles river; so on s'd river home to Wrentham line.* By Thomas White, John Darling, John Thompson, committee.

February the 14th, 1717-'18.—"Laid out for John Thompson, jr., twenty acres of Jonathan Draper's second devision of land, and eight acres of his own third division, joining to his other land *in Dedham, near Mendon*, on the *south side of Charles river;* bounded *north*, part on s'd land, part *on* Charles river; stones on a rock near the northeast corner, a pine tree marked *tree marked* near the norwest corner; so runing from s'd river, with a direct line by common land, one hundred and thirty-six rod, to the norwest corner of Josiah Thayer land, being a heape of stones on a rock; south on s'd land forty rod, to a stake and stones, being the south east corner; east by common one hundred and thirty-six rod, to the north-

east corner; the whole containing thirty-four acres, one acre allowed for a four rod way across s'd land, as also four acres allowed for bad land. Laid by John Darling, John Thompson, and Thomas White, committee."

"Laid out the day aboves'd [February 15th, 1718] for s'd Thompson, by the same committee, ten acres of his third devision, joining to his other land on the *south side of Charles river, in Dedham, near Mendon*, on a spring brook runing *into s'd river*; bounded north on s'd land ninety-one rod, the whole breadth of s'd land; continueing the west line twenty-eight rod to a stake and stones, being the south west corner; so continueing the east line ten rod, to a pine tree marked, being the southeast corner; so with a direct line of marked trees, to the southwest corner; the whole containing ten acres and three quarters—three quarters of an acre and 10 rod allowed for bad land."

"February the 15th, 1717-'18.—Laid out for Josiah Thayer, twenty acres of his third devision, joining to his other land, *by Wrentham old path;* bounded west on s'd land, thirty-eight rod from a stake and stones, being the northwest corner, to a blak oak stump, marked, being the southwest corner; southerly on common, with a direct line, one hundred and fourteen, *to his land by Charles river*, a heap of stones on a rock being the southeast corner; on s'd Thayer's land, thirty-four rod, to a stake, being a corner of his other land; northeasterly by common, with a direct line to the norwest corner; the whole containing twenty-five *five* acres—five acres allowed for bad land. By Thomas White, John Thompson, John Darling, committee."

"November the 14th, 1718.—Laid out for the heirs of Thomas Metcalf, the first, second, and third division of three commons, *in Dedham, near Mendon, on the east side of Charles river*; bounded northerly on Mrs. Dwight's land; *east on Wentham line*, thirty-two rod, a small white oake bush, markt, near the southeast corner; thence runing west fifteen degrees south, two hundred rod, to *Charles river;* then *on s'd river*, thirty-three rod, to s'd Dwight's land; the whole containing thirty-nine acres and half—three acres and half allowed for bad land, and a four rod way through s'd land. Laid out by Thomas White, John Darling, John Thompson, committee."

"June the 25, 1717.—Laid out for Nathan Aldis, first and second division, for five cow commons and two sheep commons, forty-four acres of land, *in Dedham, near Mendon, on the south side of Charles river;* bounded *east on Wentham line*, seventy-six rod and one half; north on common land, ninety-two rod; west on said Thayer's land, seventy-six rod and half; south on common, ninety-two rod. Laid out by Thomas White, John Thompson, John Darling, committee."

BELLINGHAM, *January 4th*, 1844.

I hereby certify that the foregoing is a true copy of record.
FRANCIS D. BATES, *Town Clerk.*

"I, Thomas Sanford, resident in Medway, being now in the 87th year of my age, testefieth that *in the year* 1700, I purchased one quarter, and Wm. Hayward one half, and Thomas Burch the other quarter of 800 acres of land, of Wm. Rawson, his wife and two sons, being the north east part of 1840 acres of land, lying between Sherburn, Mendon and Dedham land; and in the year 1701, I, with the said Wm. Hayward and Thomas Burch, purchased of the s'd Wm. Rawson 740 acres of land in the afores'd 1840 acres of land, being westerly of the first purchased; the two containing all the northern part of said 1840 acres next to Sherburn, as by s'd deed may more fully appear; that I remember, on the s'd first 800 acres, in the 1701, that about 3 years after, as I remember, I came to live there, I, and the other said proprietors, had notice from the selectmen, or agents of the selectmen of Sherburn, that they come to perambulate the line between Sherburn and the farm we had purchased as afores'd, called Rawson's farm; and I, with the s'd Wm. Hayward, went with the s'd selectmen or agents from Shurburn, whereof Wm. Ryder, surveyor, was one; and we began at a tree then standing scutherly or southeasterly from the house where Joseph Hill now lives, and from thence we went westerly to a marked tree, northwes of the coventry rock, and *easterly of Hopins, or branch of Charles River, so called;* which tree, near the fence now standing between the homestead of Joseph Hill and John Metcalf; *there we crossed s'd river* unto a white oake tree marked, which is now standing in the fence between the homesteads of Samuel Daniels and John Metcalf; then we went unto the Long Swamps on the highland, unto a large rock with stones on, and from thence to a stone heep *next Mendon line*, the corner of Sherburn and said Rawson's farm, there being now bounds between said great rock with stones and the corner stone heep next Mendon, as I remember; all which bound the said selectmen or agents, and we, the propriators of Rawson farm aforesaid, agreed, perambulated and acknowledged to be the line between s'd Sherburn and Rawson farm; that I lived on s'd Rawson farm 14 years, and never herd of any other bounds of line between s'd Sherburn and s'd Rawson's farm; that I this day reviewed the bounds above named, and find them all as when preambulated them, excepting the second tree above named, which is gon, and that the most of the other bounds named have a great many more stones aded since.

THOMAS SANFORD.

Witness DAVID DOLBEARE,
JAMES STEWART.

BELLINGHAM, *May* 31*st*, 1759.

SUFFOLK, *ss.*

MEDWAY, the 25th, 1761.

Then the above named Thomas Sanford appear'd and made oath to the above decleration, and to all the above mentioned bounds to be truly described to his certain knowledge and best rememberance, before me,

JEREMIAH ADAMS, *Justice of Peace.*

"BELLINGHAM, *August 16th*, 1758.

"We, the subscribers, hereby certify, that we, who are fence viewers, within this town, have, at the desire of Capt. Robert Smith, viewed, on Dwight's plane, (so called,) between the improvement of s'd Smith, on the west side of said fence, and John Partridge and John Metcalf improvement, on the east side of s'd fence; and we have devided said fence thirty-one rods, at the south end of said fence, set to said Partridge and sit to said Smith, thirty-seven rods, from the north end of the part set to said Partridge, and set to the said Metcalf the remaining six rods *next to Charles river*—the whole length of the line being seventy-four rods.

BENJAMIN PARTRIDGE,
DANIEL PENNIMAN,
Fence Viewers for Bellingham."

"Tuesday, the 16th of March, in the year 1725.—Laid out a highway of two rods wide begining at a heap of stones lying nea the road that goes from the meeting-house to Capt. Darling's, and runing *easterly to a branch of Charles river*, a little north of Samuel Darling's house, being marked out by heaps of sotones and marked trees, upon the south side of said road. John Thompson, John Darling, and Nicholas Cook, selectmen."

"BELLINGHAM, *May 26th*, 1733.

The proprietors met at Elias Thayer's house, according to adjournment, and voted, that for and in consideration of three silver dollars, paid by David Jones to the committee of the School bank belonging to the town of Bellingham, the said propriators grant, sell, and convey to said David Jones, and his heirs and assigns, forever, one rod of the four rod road, *from the bridge ower Charles river* southward, from minister Noah Alden dwelling-house southward, up to the crotch of the road.

July the 6th, 1717.—Laid out for Daniel Corbitt 20 acres, third division of land, in *Dedham, mear Mendon*, joining to his other land, begining at the northwest corner of s'd land; thence runing north 8 *degrs. and a half east, to Charles river, northerly on said river* 104 rods, to the northeast corner; thence running south 5 dgrs. west, home to his other land—the whole containing 30 acres, 10 acres allowed for bad land. By Thomas White, John Darling, John Thompson, committee."

SUFFOLK, *ss:*

1753.—To the constable of the town of Bellingham, greeting:

In his majestie's name, you are required forthwith to warn all the freeholders, and other inhabitants of the said town, qualified for voting in the election of town officers as the law directs, to convene at the town meeting-house, in the said Bellingham, on Wednesday, the seventh day of March next, at nine o'clock in the forenoon, then and there to choose officers (as the law directs) to serve this town the year ensueing; and also, to see if the town will shut up hogs, or let them run at large the ensueing year, being yoked and rung as the law directs; and also, to see if the town will grant unto John Jones the liberty to fence up a highway, which leads from the said Joneses house *to the road which leads from Charles river to the said town's meeting-house*: provided, that the said Jones do build and maintain good and substantial gates for traverlers on said way."

BELLINGHAM, *January 5th*, 1844.

I hereby certify that the foregoing is a true copy of record.
FRANCIS D. BATES, *Town Clerk.*

The committee to *repair the borders* of the towns of *Wrentham and Bellingham*, and determin some proper boundery line between said towns, with respect to jurisdictions, did, on the sixteenth instant, met the selectmen or agents of those towns, respectively, at Wrentham, and with them proceded to the borders of said towns, where the boundary line is controverted, and fully viewed the same, and found the bound trees thereon, many of them anciently marked, and lettered W. on the east side, and D. on the west side, haveing opend the same for that end; which bound marks have been often renewed, and are the same trees mentioned in the preambulation of Wrentham and Bellingham, in the year 1722. The next day, being by said parties attended, we repaired to the ponds, in the situation of the lots mentioned in the grant of Dedham to Wrentham, and reviewed the same; and it evidently appeared to us that Mill pond, so called, is the westerlyest pond in the situation of the falls. Afterward, we had also a full hearing of several pleas and allegations of the parties, and their evidences to support the same, and therefore of opinion, that the line heretofore stated and described shall be and remain the boundary line, with respect to jurisdiction, between the towns of Bellingham and Wrentham, viz:

A line extending north to Charles river, from a certain black or red oak tree, anchiently marked on four sides, standing near the river; and from said black or red oak tree southerly, according to the line of marked trees, often hertofore preambulated by the towns of Wrentham and Bellingham, untill the line comes to a large white oak tree, standing on the side of a hill, being the south-

ermost tree mentioned in the preambulation, marked on four sides; and from thence to extend south, to the north of Attelborough.

In the name, and by the order of the committee:

EDM'D QUINCY.

Boston, *March* 23*d*, 1735.

In Council, March 24th, 1735.—Read, and ordered this settelment of the boundary line between the towns of Wrentham and Bellingham be recorded in the secretary's office, in the book of commissions, &c., from this government, and that the said reported line be, and hereby is determined to be the deviding line, or boundary, between the towns of Wrentham and Bellingham, any former vot or order to the contrary notwithstanding.

In the house of representatives, March 24, 1735, read and concured.

Consented to. T. BEECHER.

A true copy, examined, &c.

SIMON FROST, *Dept. Sec'y.*

Bellingham, *January 5th*, 1844.

I hereby certify that the foregoing is a true copy of record.

FRANCIS D. BATES, *Town Clerk.*

"Bellingham, Feb. 6, 1738.—Voted to remove *our now standing meeting-house within twenty rods of a rever commonly called Charles river, in or near the town road* which leads from our said meeting-house to the county road."

Bellingham, *Jan. 5th*, 1844.

A true copy of record.

FRANCIS D. BATES, *Town Clerk.*

Wrentham, *April* 18, 1722.

Whereas the selectmen appointed Wensday, the 18th of April inst., to meet at the dwelling-house of Jonathan White, in Wrentham, at nine of the clock in the morning, to *preambulate the line* and renew the bound marks of the line *between Wrentham and Bellingham*. And haveing notified the selectmen of Bellingham to meet at time and place apointed for the work aforesaid, to join with the selectmen of Wrentham in preambulating and renewing the bound marks of said line.

The selectmen of Wrentham, Thomas Bacon, Eleazer Ware, Ralf Day, Michal Ware, and Jonathan Ware, met with the selectmen of Bellingham, viz., John Corbett, William Hayward, and John Marsh, at time and place appointed, and did join with them in preambulating the line and renewing the bound marks of the line between Wrentham and Bellingham, begining at a black oak anchantly marked on 4 sides, and set the letter W on the east side and the letter B on the west side. Said black oak is near the north end of s'd line, *near Charles river*, standing on the edge of

the hill next *the said river;* said tree then to a white oake tree standing near swamp land, marked on four sides, and set the better W on the east side; thence to a black oak marked on 4 sides, and sit the letter W on the east side; next to a white oake marked on 4 sides, and set the letter W on the east side; then to a croched red oak tree standing on the plaine, westerly from John Partridge's house, near the pine swamp, marked on 4 sides, and set on the lether W on the east side; then to a large white oak tree near a pine swamp, on the southerly side, and anchantly marked on 4 sides, and the letter W. R. on the east side, anchantly set on, and renewed s'd bound mark by seting the letter W on the east side; then to black oak tree, with a ded top, standing on a high rock plane, marked on 4 sides, and set on the letter W on the east side.

BELLINGHAM, *January 4th*, 1844.

I hereby certify that the foregoing is a true copy of record.

FRANCIS D. BATES, *Town Clerk.*

31.—3 *Copies from the town books of Mendon.*

3 Copies from the town books of Mendon, speaking of *Charles river.*

[Copied from pages 8 and 9 of the first volume of the ancient records of Mendon.]

"The desire of the inhabitants of Squnshopank to this honoured court is, that they would accept of this retourn of the plott of their plantation, which is laid out, according to their grant of eight miles square, by Joshua Ffisher.

[*For plat, see original.*]

"An explanation of this plott, being the township of Squinshopank, as it was layd out according to the grant of the general court, by me, Joshua Ffisher, April, 1667:

From A to B *it is bounded by Charles river*, a white oak being marked *on the south side of Charles river;* at a black oak on the *north side of Charles river* at B, and a line of marked trees and heap of stones to C, and from C to D a line of marked trees and heap of stones, and so from D to E, and from E to F a line, from F to A marked trees, and from A to B is one mile, *running according to the river east and west;* from B to C is four miles, wanting forty rods, running from B north; from C to D eight miles and half west; from D to E eight miles south; from E to ff north mile and half east; from F to A four miles and 40 rods.

"At O is a parcel of meadow, that the town petitioned for, of about thirty acres by estimation, *upon the north line from Charles river.*

"At a general court held at Boston, 15th of May, 1667, in answer to the petition of the inhabitants of a new plantation called Squinshopank, the court doth grant them the meadow lying out of their

line, it running through that parcle. And that the name of their town be Mendon, and that it blong to the county of Middlesex, and that they and their successors be invested with town privileges, as other towns of this juri diction do enjoy, and that they be freed from county charges for the space of three years from the time of this grant. R. 8 of what they petition for ——— the county court.

That this is a true copy taken out of the court records, as

Attest: EDWARD RAWSON, *Sec'ry.*

This court approves of this plot as it is returned, as

Attest: EDWARD RAWSON, *Secr'y.*"

[Copyed from page 68 of the first volumn of the ancient records of Mendon.]

"At the above s'd meeting, the 28 May, 1683, it passed by vote that the town would renew their line again, according to Leftenent Fisher's plot by a surveyer, and also the selectmen were apointed to see that it be done according to the s'd vote."

[From pag. 69, from the same volumn.] "Mendon."

"The 23 of October, 1683, we renewed our line round the town, by Sargent Elis, of Dedham, and 4 men to assist him; *beginning upon the north side of Charles river, one mil down stream*, so remarking of the line 4 miles wanting 40 rods, to the northeast corner, which is a heap of stones with a stake standing in it, near a piece of meadow, commonly caled Hopin's meadow; so turning of a corner upon an eastern line, eight miles and a half, marking the treese to the weste'n corner, one hundred rods *beyond the Great river*, or thareabouts, it being a white oak tree, with several others about it that are marked; from thence, turning due south, eight miles, remarking the trees to the southwest corner tree, being a chestnut tree, well marked, upon the northwest side of a great hill, with other trees marked about it; then turning east, seven miles and a half to Dedham tree, *att the Great river*, and about 3 miles from the corner upon the same line, we come upon a river called Mohegon river, so the line running about a mile with the river, and several times crosing the river, and and so meeting *the Great river* upon the south side of the falls, an so runing with *the Great river* to Dedham line."

The foregoing three pages are taken from the first volumn of the Records of Mendon, pages 8, 9, 68 and 69.

Attest, STEPHEN TAFT, *Clerk of Mendon.*

MENDON, *Jan'y* 4, 1844.

"June ye 11, 1719.—Laid out for John Thompson, junr., twenty acres, sixth division, on the *west side Bever pond brook*, joining to his other land; bounded east, part on the town line, part on his own land on Meadow bottom, sixty rod *south on Charles river*, eighty rods west on James Albee's land eighteen rod, it being a broken peace of land, containing twenty-two acres—two acres al-

lowed for bad land, and a two rod way, cross a corner of land. By Thomas White, Robard Evens, Jacob Aldrich, committee."

The above is a true copy taken from the proprietors' records, in Mendon, book No. 1, page 96.

Attest: STEPHEN TAFT,
Clerk of Mendon.

MENDON, *Jan'y* 4, 1844.

"MENDON, *April ye* 23*d*, 1744.

Then wee, the subscribers, being a committee appointed by ye selectmen of Mendon, met the selectmen of the town of Bellingham, viz: two of them, and preambulated the line, and renewed the bounds, between said *Mendon and Bellingham*, as followeth: Beginning at a heap of stones, at the corner where the three counties meet, viz: ye county of Suffolk, the county of Midd'x, and the county of Worcester.

1. Near a white oake tree, marked M H B.
2. From thence, with a direct line, to a white oak tree marked M B, standing *near Charles river;* and from thence, down s'd river, to a tree called Dedham tree.
3. From thence to a stump in Isaac Thayer's field, with stones about it.
4. From thence to a white oake tree, standing near the house of Nathaniel Thayer, marked M B.
5. From thence to a walnut, marked M B.
6. From thence to a black oak, marked M B.
7. From thence to a pine stump, and stones about it.
8. From thence to a pine, fallen down, with stones about the stump.
9. From thence to a white oak tree, marked M B.
10. From thence to a black oak stump, with stones about it.
11. From thence to a black oak tree, marked M B.
12. From thence to a black oak tree, marked M B.
13. From thence to a rock, and stones upon it, in deacon Cook's field.
14. From thence to a pich pine tree, marked M B.
15. From thence to a white oak tree, marked M B.
16. From thence to a black oak tree, marked M B.
17. From thence to a red oak tree, marked M B, *standing near Blackstone river.*

The aforesaid preambulation is given, under our hands, the day and year above written.

EBENEZER MERRIAM,
THOMAS THAYER, *the Com.*"

The within is a true copy, taken from the records in Mendon. Book 2d, page 18.

Attest: STEPHEN TAFT,
Clerk of Mendon.

MENDON, *Jan'y* 4, 1844.

"1 copy from the town books of Mendon, where Charles river is called 2nd river."

The way from ye Mill plain towards John Rockwood, jun's., &c.

"Mendon, August ye 21st, 1718.—Then laid out by Lieut. Thomas Thayer and William Hayward, by order and appointment of the selectmen for the town use, a way easterly of ye Mill plain, begining at Jacob Aldrich's land, and so going along ye road as it is now drawn, to a black oak tree, near Ben'j Albee's house, s'd tree being on ye south east side of s'd way; thence to s'd Albee's corner; thence to a white oake tree marked on ye same side, s'd way entering on ye second plain, so *along said plain to ye bridge over Second river*, a white oak tree marked on ye east side of s'd river, near ye bridge, so to a heap of stones on a rock; thence turning to ye right hand to a heap of stones on a rock; thence to a black oak stub marked; so into the old road."

The foregoing is a true copy taken from the Proprietors' records in Mendon, book No. 1, page 465.

Attest: STEPHEN TAFT,
Clerk of Mendon.

MENDON, *Jan'y* 4, 1844.

5 copies from the town books of Mendon, where *Blackstone river* is called *Great river*.

"August ye 10th, 1727: Seventy acres of land measured off and bounded out at the west end of Tiomothey Winters' land at the *Great river*, according to the above written award, and is bounded southerly on the land of John Plumly, thirty-and-six rod, and westerly on common land, ninety-two rod, north part on common part on the Great river thirty-six rod; easterly on s'd Winter's land, by a line of marked trees, measured and bounded out by Thomas White, surveyor, Isaac Thayer and Benjamin Thompson, chainmen."

"March ye 24th, 1730: Laid out for Abel Aldrich seven acres and half, eighth division of land joining to his other land on the *west side the Great river*, beginning at the west corner of s'd land, thence running northwest 2 degr's west, 34 rod to a heap of stones, being the north corner; then northeast 2 degr's north, 44 rod to a heap of stones, being the east corner; then southwest 2 degrees south, 34 rod to the east corner of his other land; then on s'd land 44 rod to the first bounds; the whole containing nine acres and sixty-six rod, one acre and 146 rod allowed for bad land. Laid out by Thomas White, surveyor, Jacob Aldrich and Joseph Taft, chainmen."

"February ye 26th, 1728—'9: Laid out for Nathan Park, five acres, eight division of land joining to his other land, *on the east side the Great river*, beginning at the north west corner of said land; thence running west 10 degrees south, twenty-four rod, to a heap of stones, being the norwest corner; then south 10 degrees

east, forty rod, to a heap of stones on a rock, being the southwest corner; then east 10 degrees north, twenty-eight rod, to his other land; then on said land to the first bounds: the whole containing six acres and half, one acre and half allowed for bad land. Laid out by Thomas White, surveyor, Jacob Aldrich and Nathan Tiler, committee."

"Twenty acres of said Chapin's fifth division, laid out on the east side of *the Great river*, by Arnull' ssawmill, in the crook of the river, bounded southerly *on s'd river*, and westerly part *on s'd river* and part on Capt. Arnold's land eighty-eight rod, here being a red oak tree, marked near the northwest corner; north, on common, with a direct line one hundred and twenty rods, to a great rock near s'd river, being a corner east on common three rod *to the river;* the whole containing thirty-one acres, eight acres and half allowed for a four rod highway through s'd land, for a four rod way from s'd way to the wading place below the falls, by Thomas White, Peter Holbrook and Samuel Read, committee, February 3d, 1709—'10".

"Four acres more of the aforesaid first division, laid out to Ephraim Chapin, upon *the east side of the Great river*, joining to his other land near his dwelling house; bounded north on said land thirty-two rod, a black oak stand being the northeast corner; east on common forty-six rod, to pine tree, being the southeast corner; south, on common twenty-four rods, to Mr. Rawson's land; west, on s'd land, forty-six rods, to the s'd Chapin's other land. The whole being eight acres, laid for four: April 23, 1714, by Thomas White, Thomas Sanford and Ebenezer Read, committee."

The foregoing are true copies, taken from the proprietors' records in Mendon, book No. 1, pages 492, 495, 498, 41 and 38.

Attest, STEPHEN TAFT, *Clerk of Mendon.*

MENDON, *Jan'y* 4, 1844.

Deed from the Suffolk registry—Rawson to Howard, Sanford & Burch, dated 1701—land bounded on *Charles river.*

Rawson to Howard, &c.

To all people unto whom this present deed of sale shall come, William Rawson, of Dorchester, in the county of Suffolke, in New England, son and sole adm'r of the estate of Edward Rawson, late of Boston, in the county afores'd, gent., dec'd, sendeth greeting: Whereas the said William Rawson, in his capacity of adm'r afores'd, is licensed and fully authorized, by the superiour court of judicature holden at Boston, within the s'd county of Suffolke, on the seventh day of November, anno dmi., 1699, to make sale of the lands belonging to the estate of his said dec'ed father, to enable him to pay the debts owing from the s'd decd., so far as the same will extend, and to pass and execute good and sufficient deeds of conveyance in the law therefore, conform to an act of the general assembly intitled "An act for making lands and tenem'ts liable

to the payment of debts. Now know yee that I, the said William Rawson, adm'r as aforesaid, pursuant to the license and authority to me granted as aforesaid, for and in consideration of the sum of forty-five pounds curr't money, in New England, twelve pence thereof in hand paid, and the remainder at the time of the ensealing and executing of these presents, secured in the law to be paid unto me, by William Howard, shipwright, and Thomas Sandford, cordwinder, both of Swansey, in the county of Bristol, in New England, afores'd, and Thomas Burch, of Bristol, in the s'd county of Bristol, planter, for the better enabling me to pay the debts owing by the s'd Edw'd Rawson, have therefore given, granted, bargained, sold, alien'd enfeoffed, released, and confirmed, and by these presents doe fully and absolutely give, grant, bargain, sell, alien, release, enfeoff, convey and confirm, unto the said William Howard Thomas Sanford and Thomas Burch, their heirs and assigns, forever, a certain tract of wast land, being parcell of that tract heretofore purchased by the s'd Edw'd Rawson, of Thomas Awassamong, Indian, of Natick, with approbation of ye general court, and surveyed and laid out by Capt. Thomas Thurston, of Medfield, bounded with Charles river, Mendon and Sherborne, and touching in a point upon Medfield, which *which* whole tract containeth eighteen hundred and forty acres, more or less, and is described in a plan thereof made and taken by the said Thomas Thurston, and hereto affixed. That is to say, all such part and parcel of the said whole tract of eighteen hundred and forty acres, more or less, as remaineth over and above eight hundred acres, at the easterly part thereof, which the s'd Edward Rawson, in his lifetime, transferred unto me, the s'd Wm. Rawson, and three hundred acres more, which s'd Edward Rawson transferred to the heirs of Thomas Dyer, late of Weymouth, in the county of Suffolk, afores'd clothier, dec'd, so that the tract of land herein and hereby meant and intended to be granted and sold, contains (according to the said annexed platt) seven hundred and forty acres, be the same more or less, together with all trees, woods, underwoods, rocks, stones, ponds, rivulets, waters, water-courses, herbadges, feedings grounds, soyle, rights, members, profitts, privilidges, hereditaments, emoluments and appurtenances whatsoever thereto, and to every part and parcell thereof in any kind belonging.

Also all the estate, right, title, interest, use, property, possession, inheritance, claim and demand, whatsoever, of the said Edward Rawson and his heirs, of, in, and to the same; with the reversion, reversions, remainder and remainders thereof: to have and to hold the s'd tract of seven hundred and forty acres of land, more or less, with the members, appur'ces, and premises, herein before granted and sold unto the said William Howard, Thomas Sanford, and Thomas Burch, and their heirs and assigns respectively
for ever, to their only proper use, benefitt, and behoof, for evermore; that is to say, to the s'd William Howard, his heirs and assigns, one

moiety or just half part thereof; and to the s'd Thomas Sanford and Thomas Burch, their heirs and assigns respectively, each one quarter part thereof. And the said William Rawson, for himself, his heirs, exe'rs, and adm'rs, doth hereby covenant, promise, grant, and agree, to and with the said Wm. Howard, Thomas Sanford, and Thomas Burch, their heirs and assigns, that the said granted and bargained premisses are free and clear, and cleerly acquitted, exonerated, and discharged, of and from all former and other gifts, grants, bargains, sales, acts, titles, troubles, charges, and incumbrances whatsoever, by him, the said William Rawson, made, done, suffered, or comitted; and that he, the s'd William Rawson, his heirs, exe'rs, and adm'rs, shall and will, at all times and time forever hereafter, warrant, maintain, and defend all the s'd granted premises, unto the said William Howard, Thomas Sanford, and Thomas Burch, their heirs and assigns, ag't all and all manner of persons whomsoever, having, claiming, or pretending to have or claim, any lawfull right, title, or interest in or to the same, or any part thereof, from, by, or under the said Edward Rawson, dec'd, or him, the said William Rawson, or either of them.

In witness whereof, the s'd William Rawson hath hereunto sett his hand and seal, the fourteenth day of July, anno dm. 1701, annoq. 3 R. R.'s Gulielini Tertij Anglice, zc decimo tertio.

WILLIAM RAWSON, [SEAL.]

Signed, sealed, and deliveied in the presence of us,
GRINDALL RAWSON,
EDWARD TURSREY.

SUFFOLK, *ss:*

BOSTON, *July* 14, 1701.

The within named William Rawson, personally appearing before me, under written, one of his maj'ty's justices of the peace within the county of Suffolk, acknowledged the within written instrument to be his act and deed.

J'S ADDINGTON.

July 6, 1703.—Rec'd, and accordingly entered and examined.
Pr. ADDINGTON DAVENPORT, *Reg'r.*

A true copy from the records of deeds for the county of Suffolk, lib. 21, fol. 315.

Attest: HENRY ALLINE, *Reg'r.*

SUPREME COURT OF THE UNITED STATES.

No. 1.

RHODE ISLAND

vs.

MASSACHUSETTS.

Deposition of Simeon Borden.

To the honorable the justices of the Supreme Court of the United States of America:

The deposition of Simeon Borden, taken to be used in the case of the State of Rhode Island, against the Commonwealth of Massachusetts.

By me, CHARLES SUMNER,
Commissioner.

Opened by order of court, 20th January, 1844.

UNITED STATES OF AMERICA, } ss:
District of Massachusetts, }

BOSTON, *November 29th*, 1843.

In pursuance of a commission from the Supreme Court of the United States, I proceeded to take the deposition of Simeon Borden, to be used in the case now pending in the said court, between the Commonwealth of Massachusetts, and the State of Rhode Island.

At Providence, on the 16th day of August, 1843, I was attended by Mr. Randolph, as counsel for Rhode Island, and by Mr. Choate, as counsel on behalf of the State of Massachusetts: then and there the said Simeon Borden read a report which he had made, in conjunction with Mr. Boutelle, and it was agreed between the said counsel, that the same, being amended in some respects, should be received as part of the deposition of the said Borden. Afterwards, on the day above written, November 29th, 1843, I was attended at Boston by Mr. Whipple, as counsel of Rhode Island, and Mr. Choate, as counsel of Massachusetts, and proceeded with the deposition of the said Borden. It was agreed between the counsel that the report of Mr. Borden and Mr. Boutelle, should be taken as part of the deposition of the said Borden, the counsel on both sides waiving all objection to its form. Afterwards, questions were pro-

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posed to the said Borden by Mr. Whipple, and then questions by Mr. Choate, which with the answers of the witness were by me reduced to writing. The whole was then subscribed by the said Borden in my presence, who made oath, that the report and the answers to the questions were true.

CHARLES SUMNER, *Commissioner.*

Fees of the commissioner, fifty dollars.

The Supreme Court of the United States at their session in 1842, ordered a survey in the case, Rhode Island versus Massachusetts, and appointed Samuel B. Cushing, of Providence, R.I., as surveyor on the part of Rhode Island, and Simeon Borden, of Fall river, Mass., as surveyor on the part of Massachusetts. Mr. Cushing having left this part of the country, Mr. Borden was accepted by the counsel for Rhode Island, as surveyor on the part of that State also; and on the 5th December, 1842, proceeded to make the survey, having previously, with the consent of the counsel for both States, appointed Charles O. Boutelle, of Cambridge, Mass., as assistant. Having completed the duty assigned them, the surveyors submit the following report:

To the honorable justices of the Supreme Court of the United States.

On the 5th December, 1842, we received the following instructions from the counsel for the State of Rhode Island, viz:

1. To find where Woodward and Saffory's station is, and determine its latitude and longitude.

2. To ascertain the direction of a line from Woodward and Saffory's station, to the point at Windsor Ferry, on the Connecticut river, where formerly stood the house of John Bissell, and to determine the position of said point, and to extend said line across the State of Connecticut.

3. To run a line from Woodward and Saffory's station, so as to intersect the Connecticut river, at a point 2½ miles south of a due west line from said station, and thence extend said line to the eastern line of New York.

4. To trace upon the map the present south line of jurisdiction of the State of Massachusetts, west of the northeast corner of Rhode Island, and to show where the parallel of 41° 55' N. latitude intersects the lines of Massachusetts and Rhode Island.

5. To find the southernmost point of Charles river below Mine brook, and three miles due south thereof, to run a line due west to Connecticut river.

6. To ascertain the size and relative volumes of water in Charles river and Mill river, and in Charles river and Mine brook.

The following instructions were received from the counsel for the State of Massachusetts, viz:

1. To survey to their fountain heads, or to their southernmost bends, the two principal tributary streams of Charles river, to wit,

Mine brook and Mill river, or any other brooks running into Charles river, which may have their rise, or may in their course reach a more southerly point than the ones above mentioned.

2. To ascertain the most southerly point of Charles river above Mine brook, and three miles south thereof, mark upon the map a due east and west line.

3. To ascertain the relative size and volume of water of Charles river and Mill river, and Charles river and Mine brook.

4. To obtain such other information as may conduce to the advantage of Massachusetts in this case.

These instructions were verbal, and from them, and conversations with the counsel on both sides, we gathered the necessary information requisite to enable the surveyors to place the court in full possession of the topographical data bearing upon the question, and we herewith present two maps, one on a scale of $\frac{1}{10000}$ showing the territory in dispute, and the adjacent country, the other on a scale of $\frac{1}{20000}$, exhibiting the various lines required by the counsel for Rhode Island, with the country through which they pass.

We were required to find where Woodward and Saffory's station is. All traces of the existence of this point upon the ground are obliterated, but we may arrive at its approximate position from a consideration of the known facts. By an examination of their map, it will be seen that Woodward and Saffory measured the three miles due south required by the charter, from a point on the southeasterly side of Wallamonopogue pond, in what is now the town of Wrentham.

A careful survey was made by us of this pond, and the point marked A (map No. 1) was considered to be at or very near the point whence they started. A point three miles due south of this is shown upon the map, but it was found to be 1,020 feet south of the latitude of the present northeast corner of Rhode Island, which tradition places due west of the station. We therefore place Woodward and Saffory's station at the intersection of the parallel of latitude of the present northeast corner of Rhode Island, with a line drawn due south from the point A, (map No. 1.) The latitude of this station is 42° 01' 08" 60 or 6' 08" 60=7.15 miles north of the parallel of 41° 55', which is the latitude assigned to it by Woodward and Saffory. Its longitude is 71 21 07 74 west of Greenwich.

After obtaining the latitude of this point, Woodward and Saffory proceeded, as appears from the map,* to Connecticut river, and there observing again for latitude, they state that the parallel of 41° 55 crosses the river at Winsor ferry, at the house of John Bissell. This ferry remains now in the same place it did then, and goes by the name of "Bissell's Ferry," being at the mouth of the Scautic river, on the east side, and between one and two miles above the mouth of the Farmington on the west.

*The map referred to purports to be a lithographed copy of a map made by Woodward and Saffory, and was furnished me by Mr. Whipple.

We find the true latitude of this ferry, at the west bank of the Connecticut river, to be 41° 51' 54" 86, or 3' 05" 14=3.55 miles *south* of the parallel of 41° 55'. This point, therefore, is 7.15+3.55 =10.70 miles *south* of the parallel of Woodward and Saffory's station, (considered as identical with the present northeast corner of Rhode Island;) and the bearing at the easternmost station of a line from one to the other is southwest 80° 59' 26" 54.

The bearing of this line, at the westernmost station, is northeast 80° 9' 38" 41, and the distance between them is=342254 feet, or 64.82 miles. The longitude of Bissell's Ferry is =72° 37' 43" 92 west of Greenwich. This line prolonged westward, would intersect the meridian of the southwest corner of the State of Massachusetts in latitude 41° 44' 41" 73, and would intersect the western line of the State of Pennsylvania in latitude 40° 31' 00", or 103.68 miles south of the parallel of the starting point at Wrentham.

This very great error probably arose from the particular manner in which Woodward and Saffory elected to perform their work. The best astronomical instruments of that day were susceptible of much error, even at the observatories in the old countries; and, at so early a period as 1642, it is not probable there were any portable astronomical instruments in this country possessing, in any ordinary degree, what would *then* be considered accuracy.

The operation of *tracing accurately* a parallel of latitude upon the surface of the earth, is one of the most difficult problems in practical geodesy which can fall to the lot of an engineer to solve at the present day, with all the aids which the advanced state of science now affords. But there are now, and there were in the 17th century, several ways of *approximating* to accuracy, in short lines, any of which are better than that employed by Woodward and Saffory.

For a line no longer than from the northeast corner of Rhode Island to Connecticut river, the common magnetic needle, allowing its variation, was the best practical method they possessed,* and with ordinary care they might have struck the Connecticut river within a mile of the true latitude by using it. They however chose the method of determining points in the same parallels by astronomical observations, and the results are as above stated. The direction at the northeast corner of Rhode Island, of a line from thence to the Connecticut river, striking it at a point 2½ miles south of a due west line, (or of the parallel of 42° 01' 08" 60) is southwest 88° 08' 02" 38, and the distance to its intersection with the meridian of the bound stone between the States of Massachusetts and Connecticut, standing on the east bank of Connecticut river, is 332110 feet, or 62.90 miles. This line is nearly coinci-

* We say practical method, because to have run the line with other and better instruments would have required an avenue to be opened through the forest the whole length of the line run; much too great a labor to be performed at that early period of the settlement of the country.

dent with the present line of jurisdiction between the States of Massachusetts and Rhode Island, passing only 15 feet south of the present northwest corner of Rhode Island.* The line has been extended across Connecticut to the eastern line of New York. It will be seen, by inspecting map number 2, that the south lines of the towns of Colebrook and Hartland, in Connecticut, nearly coincide with this line, and were doubtless intended to be a part of it. The errors in the map of Connecticut, from which the part of that State showed upon map number 2 is copied, are sufficiently great to account for the discrepancy.

The present south line of jurisdiction of the State of Massachusetts, west of the northeast corner of Rhode Island, may be seen delineated, throughout its whole length, by a full black line upon map number 2. The intersection of the parallel of 41° 55′ with the line between Massachusetts and Rhode Island, is shown on both the maps herewith presented.

We were required to determine the southernmost point of Charles river, below Mine brook. In entering upon this branch of the subject, we wish it to be distinctly understood, that the names given to this, or any other stream or place upon the maps,or by which they are called in this report, are those by which they are *now* known, and have no reference to those they may have borne formerly.

A careful survey of Charles river, from White's factory to Rockville, (see map No. 1,) was made, and it was found that the point marked (B) map No. 1, was that required. Its latitude is 42° 07′ 54″ 75, longitude 71° 22′ 19″ 87, and it is distant 1,350 feet, in a southwest direction, from the bridge crossing Charles river, near the junction of Mill river. Some difficulty occurred in ascertaining the precise southernmost bend of the river, arising from the singular fact that the current of Charles river here flows into Popolatic pond, and making a circuit through the northerly part of *of* the pond, leaves it at its northeast angle. Fortunately, in this respect, the pond was frozen over at the time of our survey, and we were enabled to trace the current of the river, by cutting holes in the ice. The difference in the thickness of the ice, on still or flowing water, was so great as to leave no doubt upon our minds as to where was the true current of the river, and we have traced and delineated it accordingly upon map No. 1. We should, however, state, that at the most southerly part of the current there is no material difference in the depth of water for some considerable distance on each side; both the pond and the river, at the time of our visit, having an average depth of 10 or 11 feet. The point B is 107 feet south of the bend in Popolatic pond, and 80 feet south of the junction of Mill river with Charles river.

Three miles south of this station, we have drawn the parallel of latitude, or due west line F G, representing the line claimed by

* The latitude of the northwest corner of Rhode Island is 42° 00′ 29″ 48. Longitude 71° 48′ 16″ 07.

the State of Rhode Island, as their true north line. It is in latitude 42° 05′ 18″ 24, and passes 604 feet south of the new church in Franklin village; 820 feet north of the tall spiral church in Bellingham, and 3,850 feet north of the stone colored church in Uxbridge.

The point F is formed by prolonging the eastern line of the State of Rhode Island northerly, to its intersection with the parallel three miles south of B. The distance from the northeast corner of Rhode Island to F, is 25,265 feet, or 4.785 miles.

The point G is formed by prolonging the line from the N. W. corner of Rhode Island to the N. E. corner of Connecticut, until it intersects the above mentioned parallel. The direction of this line is northwest 4° 16′ 48″, and its distance 29,306 feet, or 5.55 miles. The area claimed by Rhode Island is 71,822 acres, or 112.22 square miles.

Before proceeding to an account of the bend at Bellingham, we would refer once more to the plan of Woodward and Saffory. The stream which now goes by the name of Mill river, is called by them "The river that come out of the pond," and after tracing it northerly for about 4½ miles, they leave it at a place which they term "The parting of the river." This place is evidently the *junction* of Mill river with Charles river, as our survey of Mill river, from its source to its mouth, shows that no stream of any considerable size runs into it, and that there is no separation of its waters. The length of the river, as given by them, is also nearly correct, its true length, in a straight line, being 4.30 miles.

The southernmost bend of Charles river, above Mine brook, is in the town of Bellingham. The extreme southernmost point of this bend is marked upon map No. 1, at the point C. It is under a cliff, or nearly perpendicular bank, on the south side of a pond, formed by the flowing of the river by a dam near it. Our own examinations, as well as the concurrent testimony of the neighbors, proved to us that the channel of the river, before it was flowed, was close to the bank, and its southernmost bend at the point C. This point is in latitude 42° 05′ 22″ 35, and longitude 71° 28′ 34″ 01, and is 1,570 feet in a northeasterly direction from the tall-spired church in Bellingham village.

Three miles south of C, is drawn the red dotted parallel E H, the latitude of which is 42° 02′ 45″ 84. The points of intersection at E and H, are formed by the same lines as those at F and G. The distance from the N. E. corner of Rhode Island to E, is 9,841 feet, or 1.864 miles. The distance from the N. W. corner of Rhode Island to H, is 13,842 feet, or 2.622 miles.

The area included in the quadrilateral formed by the line E H, and the present line of jurisdiction, is 30,970 acres, or 48.38 square miles.

The southernmost source of any water flowing into Wallamonopogue pond, is in a swamp among the Red Brush hills, in Wrent-

ham, Mass. It may be seen delineated upon map No. 1, but there being much uncertainty respecting the southernmost point whence water flows at all periods of the year, we have represented it as we found it at the time of our survey, (December, 1842,) without fixing upon any point from which to draw a line three miles south.

No such uncertainty occurs with regard to Mine brook, the southernmost point of which (marked D, map No. 1) is sufficiently far from the sources of the stream to be always supplied with water. The point D is in a swamp, thickly wooded on almost every side. A ditch has been made, connecting Mine brook at this point with the head of a small streamlet, which rises in the same swamp, about 500 feet farther south, and flows into the Blackstone. At the time of our visit, however, no water from Mine brook flowed through this ditch, but the whole went to Charles river.

Three miles south of D, is drawn the black dotted parallel I K, the latitude of which is 41° 59′ 27″ 22. The distance from the N. E. corner of Rhode Island to I, is 10,260 feet, or 1.924 miles. The distance from the N. W. corner of Rhode Island to K, is 6,297 feet, or 1.193 miles. The area included between the parallel I K, and the present line of jurisdiction, is 21,577 acres, or 32.714 square miles.

There are no other streams running into Charles river which have their rise, or in their course reach a more southerly point than the ones above mentioned.

Before leaving this part of our report, we would state that all the latitudes, longitudes of stations, and other general data here given, were obtained by connecting those points with the late trigonometrical survey of the State of Massachusetts. In that survey, the latitude of the State-house in Boston was determined, from a mean of a great number of observations, to be 42° 21′ 30″, and its longitude 71° 04′ 09″, west of Greenwich. On the correctness of the geographical position of this point depends that which we have here assigned to our various stations, and any error hereafter discovered in the position of the State-house will affect *equally* all our results. But such error, if any exist, must be small, and it would have required months of unremitting labor on our part to have procured results similarly accurate by astronomical observation. It is also, in this case, a matter of small importance whether it is correct or not, since an error in latitude or longitude, affecting all our results *equally*, they will maintain their *relative positions* as accurate as before. These relative positions we consider as correctly given within from six to ten feet.

For the convenience of future reference we subjoin the following tables of values in feet of arcs of the meridian and of the parallel, taken from the Massachusetts trigonometrical survey, which have been used in constructing the maps herewith presented.

VALUES OF MERIDIONAL ARCS.

Middle latitude.		Feet in a minute of latitude.	Middle latitude.		Feet in a minute of latitude.
deg.	min.		deg.	min.	
41	50	6072.088	42	00	6072.241
"	51	" 103	"	01	" 256
"	52	" 119	"	02	" 272
"	53	" 134	"	03	" 287
"	54	" 149	"	04	" 302
"	55	" 165	"	05	" 317
"	56	" 180	"	06	" 333
"	57	" 195	"	07	" 348
"	58	" 210	"	08	" 363
41	59	6072.226	42	09	6072.378

VALUES OF ARCS OF THE PARALLEL.

Latitude.		Feet in a minute of longitude.	Latitude.		Feet in a minute of longitude.
deg.	min.		deg.	min.	
41	50	4538.898	42	00	4527.097
"	51	" 37.719	"	01	25.915
"	52	" 36.541	"	02	24.732
"	53	" 35.364	"	03	23.549
"	54	" 34.182	"	04	22.366
"	55	" 33.002	"	05	21.183
"	56	" 31.822	"	06	20.000
"	57	" 30.640	"	07	18.817
"	58	" 29.460	"	08	17.630
41	59	4528.279	42	09	4516.444

The only remaining matter committed to us, and necessary to be reported on, is that required by the counsel on both sides, viz: "To ascertain the size and relative volumes of water in Charles river and Mill river, and Charles river and Mine brook."

If by "size" is meant the amount of *surface* covered by water in any given length, there can be no doubt that Charles river is much the largest in this respect, or that a person following up the stream in search of the main channel would, at all ordinary heights of the water, have chosen the stream now called Charles river, and passed the others as tributaries.

The *accurate* determination of the relative *volumes* of water in the three streams mentioned would have been a work of much time, labor, and expense, requiring at least twelve months of close observation, and a considerable expenditure for apparatus. Believing, however, that approximate estimates were all that were required in this case, the method has been adopted of finding out

the amount of labor each stream can perform at *the dry season of the year.* The method is based upon the principle that the amount of machinery driven upon any stream is nearly in proportion to the fall and to the volume of water afforded by that stream. Supposing, therefore, the arrangement, the kind of machinery, and the kind of work performed, to be the same in factories situated on two streams, and the fall at each place to be known, the volume of water may be arrived at by comparing the quantity of labor performed by each. Many subordinate considerations, which it is unnecessary here to detail, enter into the question and combine to render the result an approximation only to the truth, but, we believe, a sufficiently close approximation to answer the present purpose.

The following comparisons have been made on the above principles from data collected at the different manufactories by Mr. Borden. The positions of the different factories may be seen on map No. 1.

1st. We compare the Eagle factory, on Mill river, with the Rockville factory, on Charles river, below Mill river.

The Rockville factory has 8 feet fall, runs 500 spindles, and makes thread. There are other works upon the same privilege. The superintendant thinks the whole would run constantly about 1,000 spindles.

The Eagle factory has 11 feet fall, runs 750 spindles, and makes thread, occasionally permitting waste water to run off. If the Rockville factory had 11 feet fall, it should, in the same ratio, move 1,375 spindles.

This estimate, therefore, indicates that the Rockville factory has not *double* the quantity of water of the other, but that the volume of Charles river, at Rockville, is to that of Mill river, at the Eagle factory, in the dry season, as 28 is to 15. The Eagle factory, however, having three feet more fall, can use their power to somewhat better advantage.

2d. We next compare Messrs. Cary & Metcalf's mills, on Charles river, at Medway Factory village, with the City mills, on Mill river, in Franklin.

We would here remark, that Charles river receives no tributary between Medway factories and Mill river; nor does Mill river receive any worth noticing.

The City mills have 20 feet fall, and drive constantly 3,100 spindles; about one-half of them, however, are "mule spindles," on which account 30 per cent. is deducted from the power.

Cary's mill, with 11 feet fall, drives 1,000 spindles; and Metcalf's, with 14 feet fall, drives 1,200, which is about the same ratio.

This comparison indicates the volume of water in Mill river to be greater than that in Charles river, in the dry season, in the proportion of 6 to 5. The City mills have the greatest fall, and can, consequently use their power to better advantage.

3d. We compare the Wrentham factory, on Mill river, above the City mills, with Messrs. Carey & Metcalf's mills, at Medway. The fall at Wrentham factory is 8 feet 10 inches, and they drive 912 frame spindles and 368 mule spindles—deduct 20 per cent. for power saved by using mule spindles.

This comparison indicates the volume of water in Mill river greater than that in Charles river, in the dry season, in the proportion of 6 to 5; the same as before. Here, however, the advantage from greater fall is on the side of the Medway factories.

4th. Next we compare Slocum's mill, on Mine brook, with Hunt's mill, on Charles river, below Mine brook.

Slocum's mill has a fall of 5 feet, and drives 240 spindles making thread. Hunt's Mill has a fall of 9 feet, and drives 512 spindles making thread. Both privileges are short of water in a very dry time.

A comparison between these indicates that the volume of water in Mine brook is greater than that in Charles river, *above* the junction, in the dry season, in the proportion of 8 to 5—the advantage of greater fall being in favor of Hunt's mill.

5th. Lastly, we compare Slocum's mill, on Mine brook, with White's factory, on Charles river, above Mine brook. White's factory has 15 feet fall, drives 1,000 spindles, and makes cloth. The comparison indicates that the volume of water in Charles river, at this point, is greater than in Mine brook in the proportion of 7 to 5—the advantage of greater fall being in favor of White's factory.

This species of evidence would go to show that Mill river, in its present condition, at the dry season of the year and in the day time, is somewhat larger in volume than Charles river, at their junctions, and that at the same period there is little or no difference in the volumes of Mine brook and Charles river at their junctions.

But it was also found that, while the streams are at a medium height, affording about the necessary quantity for moving the machinery without waste, when the gates of the factories are shut at night, the waters of Charles river necessarily flow onward in a volume but little diminished, while a great portion of the waters of Mill river are held in check until the following day, when they are appropriated to give motion to the machinery. The same occurs, though not to so great an extent, with Mine brook, which has in its valley a much greater quantity of low, flat and boggy land, in proportion to its own length, and that of its tributaries, than is to be found in Charles river above Mine brook.

Again, it was stated by the managers of the factories on Charles river, that for six months of the year a quantity of water ran to waste over their dams, estimated by some as equal to, and by others as double, the quantity used for driving the machinery.

From these data, perhaps, the following statement may be a sufficient approximation to truth to answer the purposes of the present enquiry:

Charles river.	Nos. representing volumes. Day.	Night.		*Mill river.*	Nos. representing volumes. Day.	Night.	
3 mos. dry season,	5	+ 1	= 6	3 mos. dry season,	6	+ 0	= 6
3 " medium,	6	+ 4	=10	3 " med. height	6	+ 1	= 7
3 " waste water	12	+10	=22	3 " waste water	7	+ 2	= 9
3 " wet season	18	+16	=34	3 " wet season	8	+ 4	=12
Total for one year	41	+31	=72	Total for one year	27	+ 7	=34

Making the *annual* volume of Charles river to be to that of Mill river as 72 is to 34, or about double.

We here represent the volume of Charles river during the day in the dry season (which we assume to last three months) by the number five. When the gates are shut at night, the ponds and reservoirs continue to fill, and before morning they have filled, and a portion runs to waste, which we estimate as one-fifth of the quantity discharged in the day. One-fifth of five is one, which makes the average volume for the twenty-four hours equal to six. This number also represents the volume of Mill river, where, when the Eagle factory shuts its gates, the stream at this period is almost wholly stopped. The same occurs in a less degree with Mine brook, and to this it is to be ascribed that Charles river does not fill faster at night in the dry season, since its most important tributaries have their waters held in check to supply their own factories.

During the three months when the water is at a medium height, Charles river runs a small portion of waste water during the morning, which we call one, and which added to the five used for driving the machinery gives six for the day, and at night the water flows on, diminished only by the water kept back by the tributaries.

During the next three months all the streams run waste water, and as it requires then more water to do the same work, we assume then the volume required for use at Charles river at six, and estimate the waste as equal to it in volume, making the quantity for the day time = 12. This is only diminished at night by that held back by tributaries as before stated.

In the three months of the wet season, we are probably below the truth in taking the quantity of waste water in Charles river as double that used. This gives the volume for the day time at 18, and that for the night as 16, making 34 for the twenty-four hours.

Mill river does not increase in any thing like the same ratio for several reasons. It is *shorter*, and observation has shown that the volume of water afforded by any stream, not running over a gravelly or sandy soil, bears some definite proportion to the amount of surface it drains. It rises in a pond having a large area, and communicating with another pond of some extent of surface.

Thus a great body of water may be added to these ponds without much increasing their perpendicular height. While this serves to keep the volume of water in Mill river constant, it also prevents those rapid rises and equally rapid falls so common on Charles river. We are confident of being rather above than below the truth, in stating the volume of Mill river in the wet season as *double* that of the dry season.

We present no statement of the volumes of water in Mine brook at different periods of the year, partly because there is less data on which to found one, but principally because the same general course of reasoning applies in the one case as in the other, and such a statement would be only a repetition slightly varied of what has gone before. It is sufficient to say, that after carefully considering the subject, we conclude that double the quantity of water runs in Charles river *annually*, immediately above its junction with Mine brook, than runs in Mine brook.

Also, that double the quantity of water runs in Charles river *annually*, immediately above its junction with Mill river, than runs in Mill river.

At the same time, we are of opinion, that at certain portions of the year both Mill river and Mine brook afford, at their respective junctions, at least as much water as flows in Charles river at the same period.

Respectfully submitted by,
SIMEON BORDEN, *Surveyor.*
CHAS. O. BOUTELLE, *Assist. do.*

Additional questions proposed by Mr. Whipple, of counsel for the State of Rhode Island, to the principal surveyor, Mr. Borden.

1st. Whether in your opinion, as a man of science, Woodward & Saffory employed the instruments used by them in their survey in 1642, in a skilful manner?

[This question was objected to by Mr. Choate, of counsel for the Commonwealth of Massachusetts.]

Answer. From the evidence which appears upon the copy of Woodward & Saffory's map, furnished me by Messrs. Whipple & Randolph, I presume they must have determined the bounds of Massachusetts with the instruments used in that day for determining the latitude of places. I will not pretend to say that they did not use these instruments skilfully.

2nd *Question.* Whether, as it appears by the work, or in your opinion, did they use the best instruments accessible to them at the time?

[This question was objected to by Mr. Choate.]

Answer. The common compass existed at that day in nearly as great perfection as at present, and I think with the best compasses of that day they might have run the line from their starting point, viz: (Woodward & Saffory's station,) to the Connecticut river,

within a mile of the true line desired. I should presume that they did not use the compasses, but I mean to be understood that the compass was the best practical instrument they could use at that day.

Cross examination by Mr. Choate, of counsel for the Commonwealth of Massachusetts.

1st *Question.* Please state the area, depth, and capacity of the Wallamonopoague pond?

Answer. The large pond has 213 acres. I suppose the middle must be thirty or forty feet deep, as it was not frozen over till we had much severe cold weather. The average depth would be fifteen feet. The small pond has 78 acres. The depth is probably 10 or 12 feet; it is not so deep as the other.

2nd *Question.* Are you able to say from any records that you have inspected, or from any other means, that any line on the surface of the earth had been run in New England, as early as 1642, by means of a compass?

Answer. In answer, I will say, that the earliest records I have ever seen of the division of lands, are where they were made by a compass. The age of the records I do not remember.

SIMEON BORDEN.

UNITED STATES OF AMERICA, }
District of Massachusetts, } *ss:*

BOSTON, *November 29th,* 1843.

Then and there personally appeared the above named Simeon Borden, and made oath, that the foregoing survey and answers to questions, by him subscribed, were true.

Before me, CHARLES SUMNER,
Commissioner.

Abstract of Historical events relating to the North and South lines of Massachusetts, prepared by the Counsel for Rhode-Island, in the case Rhode-Island vs. Massachusetts, pending in the Supreme Court of the United States, January Term, 1845.

The origin of the Council of Plymouth, and the early settlement of Massachusetts and New Hampshire, appear from the following extracts from Belknap's History of New Hampshire, edition of 1831, and the Notes by John Farmer:

"The importance of the country now began to appear greater "than before, and some measures were taken to promote its settle- "ment. A patent had been granted by King James in 1606, limit- "ing the dominion of Virginia, from the thirty-fourth to the forty- "fourth degree of northern latitude; which extent of territory had "been divided into two parts, called North and South Virginia.— "The latter was assigned to certain noblemen, knights and gentle- "men of London; the former to others in Bristol, Exeter and Ply- "mouth. Those who were interested in the northern colony, find- "ing that the patent did not secure them from the intrusions of oth- "ers, petitioned for an enlargement and confirmation of their privi- "leges. After some time, the king, by his sole authority, constituted "a council, consisting of forty noblemen, knights and gentlemen, "by the name of 'The council established at Plymouth, in the "county of Devon, for the planting, ruling and governing of New- "England, in America.' They were a corporation with perpetual "succession, by election of the majority; and their territories ex- "tended from the fortieth to the forty-eighth degree of northern "latitude. This patent, or charter, is the foundation of all the grants "that were made of the country of New-England. But either from "the jarring interests of the members, or their indistinct knowledge "of the country, or their inattention to business, or some other

"cause which does not fully appear, their affairs were transacted in "a confused manner from the beginning; and the grants which "they made were so inaccurately described, and interfered so much "with each other, as to occasion difficulties and controversies, some "of which are not yet ended.

"Two of the most active members of this council were Sir Fer- "dinando Gorges and Captain John Mason. Gorges had been an "officer in the navy of Queen Elizabeth, intimately connected with "Sir Water Raleigh, of whose adventurous spirit he had a large "share. After the peace which King James made in 1604, he was "appointed governor of the fort and island of Plymouth in Devon- "shire. Whilst he resided there, Captain Weymouth, who had "been employed by Lord Arundel in search of a northwest pas- "sage, but had fallen short of his course and put in at Pemaquid, "brought from thence into the harbor of Plymouth, five natives of "America, three of whom were eagerly seized by Gorges, and re- "tained in his service for three years. Finding them of a tractable "and communicative disposition, and having won their affections by "gentle treatment, he learned from them many particulars concern- "ing their country, its rivers, harbors, islands, fisheries and other "productions; and the numbers, force, disposition and government "of the natives; and from this information, he conceived sanguine "hopes of indulging his genius, and making his fortune, by a thor- "ough discovery of the country.[1] For this purpose, he, in conjunc- "tion with others, ventured several ships, whereof some met with "peculiar misfortunes; and others brought home accounts, which "though discouraging to some of his associates, made him deter- "mine upon farther attempts, wherein his resolution and perseverance "were more conspicuous than any solid gain. These transactions "were previous to the establishment of the council; in soliciting "which, Gorges was so extremely active, that he was appointed "their president, and had a principal share in all their transactions. "Mason was a merchant of London, but became a sea officer, and "after the peace governor of Newfoundland, where he acquired a "knowledge of America, which led him, on his return to England, "into a close attachment to those who were engaged in its discove- "ry: and upon some vacancy in the council, he was elected a mem-
1621. "ber and became their secretary; being also governor of "Portsmouth in Hampshire. He procured a grant from the "council, of all the land from the river of Naumkeag, now Salem, "round Cape Anne, to the river Merrimack; and up each of those "rivers to the farthest head thereof; then to cross over from the "head of the one to the head of the other; with all the islands ly- "ing within three miles of the coast. This district was called MA- "RIANA. The next year another grant was made to Gorges and

(1) Gorges' Narrative.

"Mason jointly, of all the lands between the rivers Merrimack and "Sagadehock, extending back to the great lakes and river of Can-"ada, and this was called LACONIA.

"Under the authority of this grant, Gorges and Mason, in con-"junction with several merchants of London, Bristol, Exeter, Ply-"mouth, Shrewsbury and Dorchester, who styled themselves 'the "company of Laconia,' attempted the establishment of a colony
1623. "and fishery at the river Pascataqua; and in the spring of the "following year, sent over David Thompson, a Scotchman, "Edward and William Hilton, fishmongers of London, with a num-"ber of other people, in two divissions, furnished with all necessa-"ries to carry on their design. One of these companies landed on "the southern shore of the river, at its mouth, and called the place "Little-Harbor. Here, they erected salt-works, and built an house "which was afterwards called Mason-Hall;* but the Hiltons set "up their stages eight miles further up the river, toward the north-"west, on a neck of land which the Indians called Winnichahannat, "but they named Northam, and afterward Dover.[1] Thompson not "being pleased with his situation, removed the next spring to an "island in the bay of Massachusetts;† this the General Court after-"wards confirmed to him, and it still bears his name.[2]

"These settlements went on but slowly for several years, but the "natives being peaceable and several other small beginnings being "made along the coast as far as Plymouth, a neighborly intercourse "was kept up among them, each following their respective employ-"ments of fishing, trading and planting, till the disorderly behavior "of one Morton, at Mount Wollaston in the bay of Massachu-
1628. "setts, caused an alarm among the scattered settlements as "far as Pascataqua. This man had, in defiance of the king's procla-"mation, made a practice of selling arms and ammunition to the In-"dians, whom he employed in hunting and fowling for him; so that

*[The site of this house was on a peninsula, or point of land, now called Odiorne's point, which is formed by Little-Harbor on the north-east, and a creek on the south, with a large tract of salt marsh on the west. This place was selected with great judgment. The peninsula contains about five hundred acres of land, on which is a commanding eminence; where are evident remains of an ancient fort, and situated so as to be a complete defence against the incursions of a savage enemy. The house was erected a few rods to the northward of the fort. The present possessors of the land point out the spot where it stood. They think they have discovered the foundation of the chimney and the cellar walls. These were standing when Mr. Hubbard wrote in 1680. Three or four thousand acres were annexed to this building, with an intention of forming a manor there, according to the English custom. Adams, Annals of Portsmouth, 10, 11.]

(1) Hubbard's MS. [p. 214 of the printed copy.] (2) Prince's Annals

†[It appears from Bradford, in Prince, i. 161, that Thompson was living at Paskataquack in 1626, and probably about that time, and not as in the text, in 1624, removed to the Massachusetts Bay, and took possession of "a very fruitful island and a very desirable neck of land, which is afterwards confirmed to him by the General Court of the Massachusetts Colony."]

"the English, seeing the Indians armed in the woods, began to be in "terror. They also apprehended danger of another kind; for Mor- "ton's plantation was a receptacle for discontented servants, whose "desertion weakened the settlements, and who, being there without "law, were more formidable than the savages themselves.[3] The "principal persons of Pascataqua therefore readily united with their "neighbors, in making application to the colony of Plymouth, which "was of more force than all the rest, to put a stop to this growing "mischief; which they happily effected by seizing Morton and "sending him prisoner to England."†

(3) Prince's Annals.

† [The apportionment of the charges of this united effort of the earliest plantations to check the progress of Morton, as given by Governor Bradford in 1 Coll. Mass. Hist. Soc. iii. 63, may serve to show their relative importance at this time.

Plimouth,	£2 10	Natascot,	£1 00
Naumkeak,	1 10	Thomson,	0 15
Pascataquack,	2 10	Blackston,	0 12
Jeffrey and Burslem,	2 00	Edward Hilton,	1 00
		Total,	£12 7

This assessment alone enables us to correct the error in Dr. Holmes, (Annals of America, i. 209) who says, under the year 1631, "Portsmouth began to be settled this year."

The settlement of this place commenced in the spring of 1623, by David Thompson, and appears from several authorities, not to have been broken up, although Thompson himself removed within a few years to the Massachusetts colony. From Governor Bradford, in Prince, i. 161, it is evident that he was at Pascataquack in 1626; and from the preceding apportionment, it appears that this place was of sufficient consequence, in 1628, to pay a sum equal to that of Plymouth. Again, from Prince, i. 196, it seems that the inhabitants on Pascataqua river in 1629, entered into a combination for the erecting a government among themselves; and from Adams' Annals of Portsmouth, 18, there were in 1631, at least 50 men employed by Mason, as stewards and servants, besides ten Danes, who were occupied in sawing lumber and making potash. Some persons may have doubts whether Thompson's settlement and Pascataquack were the same, which will be removed by recurring to Edward Winslow's *Good News from New England*, which informs us that David Tomson, a Scotchman, began in the spring of 1623, "a plantation twenty-five leagues north-east from us, [Plymouth] near Smith's Isles, at a place called Pascataquack."]

On the 3d November, 1620, ~~16th~~ 10th James First, a grant was made by the king to "the Council established at Plymouth, in the County of Devon, for the planting, ruling and governing of New England, in America."

This Charter was granted upon the petition of Sir Ferdinando Gorges. "Now forasmuch as we have been in like manner, humbly petitioned unto by our trusty and well beloved servant, Sir Ferdinando Gorges, Knight, Captain of our Fort and Island of Plymouth, &c." Hazard 1st, p. 104.

It grants "All that Circuit, Continent, Precincts and limits in America, lying and being in breadth from forty degrees of the said Northern latitude, to forty-eight degrees of the said Northern latitude, and in length by all the breadth aforesaid, throughout the main land from sea to sea." 1 Hazard, 105.

It also confers the power "To make, ordain and establish all manner of orders, laws, directions, instructions, forms and ceremonies of government of said Colony and Plantation." p. 109, 1 Hazard.

The Council of Plymouth, on the 19th March, 1628, 4th Charles I., granted to Henry Rosewell, and others,

"All that part of New England in America aforesaid, which lies "and extends between a great river there, commonly called Mono- "mack, alias Merrimack, and a certain other river there, called "Charles River, being in the bottom of a certain Bay there, com- "monly called Massachusetts, alias Mattachusetts, alias Massatusetts "Bay, and also all and singular those lands and hereditaments what- "soever, lying within the space of three English miles on the South "part of the said Charles River, or of any, or every part thereof; "and also all and singular the lands and hereditaments whatsoever,

"lying and being within the space of three English miles to the "southward of the southernmost part of the said Bay called Massa- "chusetts, alias Mattachusetts, alias Massatusetts Bay; and also, all "those lands and hereditaments whatsoever, which lie and be "within the space of three English miles to the northward of the "said river called Monamack, alias Merrymack, or to the northward "of any and every part thereof, and all lands and hereditaments "whatsoever, lying within the limits aforesaid, North and South in "latitude and breadth, and in length and longitude, of and within "all the breadth aforesaid, throughout the main lands there, from "the Atlantic and Western Sea and Ocean, on the East part, to the "South Sea on the West part." 1 Hazard, p. 241.

On the 4th March, 1629, Charles the First confirmed the above grant, by his Patent of that date, the lands described as above, and conferred upon them the powers of government in Massachusetts.

On the 30th December, 1621, in the 20th James, the Council of Plymouth granted to Robert Gorges a portion of the territory of Massachusetts, included in their subsequent grant to Henry Rose-

well, of the 19th March, 1828, "Of all that part of the main land in New England aforesaid, commonly called and known by the name of Massachusetts, situate lying and being on the north side of the bay called or known by the name of Massachusetts, or by what other name or names soever it be or shall be called or known, together with all the shores and coasts along the sea, for ten English miles, in a straight line toward the north-east, and 30 English miles into the main land, *through all the breadth aforesaid*, together with all the isles and islands lying within three miles of any part of said lands."

This grant also conveyed, in terms, *jurisdiction* over said ten miles, both in civil and criminal cases, saving to the Council in England, the right of appeal from all judgments given within said territory. 1 Vol. Hazard, 154–155.

On the 13th January, 1629, 5th Charles I., the Patent for the old Colony of Plymouth was granted. The bounds of their Colony were as follows:

"All that part of New England, in America aforesaid, and tract "and tracts of land that lie within or between a certain rivulet or "runlet there, commonly called Coahasset, alias Conahasset, towards "the north, and the river commonly called Naragansetts River, to-

"wards the south, and the great Western Ocean towards the east,
"and between and within a straight line directly extending up into
"the main land towards the west, from the mouth of the said river
"called Naragansetts River, to the utmost limits and bounds of a
"country or place in New England, commonly called Pokenacutt,
"alias Sowamsett, westward, and another like straight line, extend-
"ing itself directly from the mouth of the said river called Coahas-
"sett, alias Conahassett, towards the west so far up into the main
"land westward, as the utmost limits of the said place or country,
"commonly called Pokenacutt, alias Sowamsett, do extend, to-
"gether with one half the said river called Naragansetts, and the
"said rivulet or runlet called Coahassett, alias Conahassett, and all
"lands, rivers, waters, havens, creeks, ports, fishings, and all here-
"ditaments, profits, commodities and emoluments whatsoever, situ-
"ate, lying and being, or arising within or between the said limits
"and bounds, or any of them."

On the 7th Nov., 1629, 19 months after their grant to Henry Rosewell, et al, the Council of Plymouth, 5th Charles I., granted to John Mason, what is now New Hampshire:

"Beginning from the *middle* part of Merrimack River, and from
"thence to proceed within and along the sea coast to Piscataqua
"River, and so forward up within the said river, and to the furthest
"head thereof, and from thence north-westwards, until threescore
"miles be finished from the first entrance of Piscataqua River, and
"also from Merrimack through said River, and to the furthest head
"thereof, and so forward up into the lands westwards, until three
"score miles be finished, and from thence to cross over land to the
"threescore miles, and accompted from Piscataqua River, with all
"Islets, &c. within five leagues."

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Six years later, 11th Charles I., April 22, 1635, another grant was made of the same territory, by said Council, to Mason, differently bounded. 1st Hazard, 387.

On the 7th June, 1635, the said Council of Plymouth surrendered their Grant to the Crown.

On the 3d April, 1639, the king granted the Province of Maine to Sir Ferdinando Gorges, by the following description:

"Which part and portion of the said country we have heretofore "amongst other things for us, our heirs and successors, taken into "our actual and real possession, and in default of such actual and "real possession formerly taken, we do by these presents, for us our "heirs and successors take the same into our actual and real posses-"sion; know ye, therefore, that of our special grace, certain know-"ledge and mere motion, we have given, granted and confirmed, "and by these presents for us, our heirs and successors, do give, "grant and confirm unto the said Sir Ferdinando Gorges, his heirs "and assigns, all that part, purpart and portion of the main land of "New England aforesaid, beginning at the entrance Pascataway "harbor, and so to pass up the same into the River Newichawocke, "and through the same into the farthest head thereof; and from "thence northwestwards till one hundred and twenty miles be fin-"ished, and from Pascataway harbor mouth aforesaid, north-east-"wards along the sea-coast to Sagedehadocke, and up the river "thereof to Knybecky River; and through the same to the head "thereof, and unto the land north-westwards, until one hundred and "twenty miles be ended, being accounted from the mouth of Sa-"gedehadocke, and from the period of one hundred and twenty "miles aforesaid, to cross over land to the hundred and twenty "miles end formerly reckoned up into the land from Pascataway "harbor through Newichawocke River; and also the north half of "the Isles of Shoals, together with the Isles of Capawock and "Nautican, near Cape Cod." 1 Hazard, 442.

By the following extracts from Belknap, vol. 1, p. 8, it appears that the settlements which commenced in New Hampshire. in 1621, were followed by other settlements in 1630–31 and '32.

"The same year Captain Mason procured a new patent, under "the common seal of the Council of Plymouth, for the land 'from "the middle of Pascataqua river, and up the same to the farthest "head thereof, and from thence north-westward, until sixty miles "from the mouth of the harbor were finished; also, through Merri-"mack River, to the farthest head thereof, and so forward up into "the land westward, until sixty miles were finished; and from "thence to cross over land to the end of the sixty miles accounted "from Pascataqua River; together with all islands within five "leagues of the coast." This tract of land was called New Hamp-"shire: it comprehended the whole of Wheelwright's purchase; "and unless Mason's intention was to frustrate his title, it is dificult "to assign a reason for the procurement of this patent, as the same "land, with much more, had been granted to Gorges and Mason "jointly, seven years before. If there was an agreement between "them to divide the province of Laconia, and take out new patents "from the council, in preference to making a deed of partition; it "is not easy to conceive why the western boundary should be con-"tracted to sixty miles from the sea, when the lakes and rlver Can-"ada were supposed to be but ninety or an hundred miles from "Pascataqua.[2] If this grant was intended as an equivalent for the "patent of Marianna, which the council had the preceding year in-"cluded in their deed to the Massachusetts company, it is impossi-"to account for the extension of New-Hampshire to the river
1630. "Merrimack, when the grant of Massachusetts reached to
Mar. 12. "'three miles north of that river and of every part of it.'*

"The west country adventurers were not less attentive to their "interest: for in the following spring, they obtained a patent from "the council, whereby 'all that part of the river Pascataqua called

(1) MS. in files of Superior Court. (2) Gorges' History of America, p. 48.

*Mr. Hubbard in his MS. history says, "it hath been affirmed by Mr. Josselyn, who first came over into New-England on Capt. Mason's account, that there was an agreement made between Mr. Matthew Cradock (the first Governor of the Massachusetts company) and Capt. John Mason, that the bounds of the Massachusetts should reach to *three miles northward of the Merrimack*, and the remainder of the land betwixt that line and Pascataqua river, should be left for Capt. Mason's patent."

The commissioners sent by Charles II, in 1664, report that "Mr. Mason had a patent for some land about Cape Anne before the Massachusetts had their first patent; whereupon Capt. Mason and Mr. Cradock agreed that the Massachusetts should have that land, which was granted to Capt. Mason about Cape Anne, and Capt. Mason should have *that land which was beyond Merrimack and granted to the Massachusetts*. This agreement was sent to Mr. Henry Jocelyn to get recorded at Boston, but before he could have leisure to go there, he heard that Capt. Mason was dead, and therefore went not. Of this, he made affidavit, before the Commissioners." Hutch. Collection Papers, p. 423.

"or known by the name of Hilton's Point, with the south side of "said river, up to the falls of Squamscot, and three miles into the "main land for breadth,' was granted to Edward Hilton. This "patent, sealed with the common seal of the council, and subscribed "by the Earl of Warwick, sets forth, that Hilton and his associates "had at *their own* proper cost and charges, transported servants, "burlt houses and planted corn at Hilton's Point, now Dover, and "intended the further increase and advancement of the plantation.[1] "William Blackstone, William Jeffries and Thomas Lewis, or either "of them, were impowered to give possession of the premi- 1631. "ses; which was done by Lewis and the livery and seizin "endorsed. Within these limits are contained the towns of Dover, "Durham, and Stratham, with part of Newington and Greenland. "It was commonly called Squamscot patent, but sometimes Bloody- "Point patent, from a quarrel between the agents of the two com- "panies about a point of land in the river which was convenient for "both; and there being no government then established, the con- "troversy would have ended in blood, if the contending parties had "not been persuaded to refer the decision of it to their employers.[2]

"The London adventurers also thought it prudent to have some "security for the interest which they had advanced, and according- "ly obtained a grant from the council, of 'that part of the patent "of Laconia, on which the buildings and salt-works were erected, "situate on both sides of the harbor and river of Pascataqua to the "extent of five miles westward to the sea-coast, then to cross over "towards the other plantation in the hands of Edward Hilton.'[3]— "The grantees named in this patent* were, Sir Ferdinando Gorges, "Captain John Mason, John Cotton, Henry Gardner, George Grif- "fith, Edwin Gay, Thomas Warnerton, Thomas Eyre, and Eliezer "Eyre, who, it is said, had already expended three thousand pounds "in the undertaking. They were to pay forty-eight pounds per "annum by way of acknowledgement to the president and council, "if demanded. Captain Camoke, a relation of the Earl of War- "wick, with Henry Jocelyn, who were then intending a voyage "hither, were appointed to put the grantees in possession. Within "this patent are comprehended the towns of Portsmouth, Newcastle, "and Ree, with part of Newington and Greenland.

"The whole interest being thus divided into two parts, Captain "Thomas Wiggin was appointed agent for the upper, and Captain "Walter Neal for the lower plantation; with him were associated

(1) MS, copy in Proprietary office. (2) Hubbard's MS. [p. 217 of the printed copy.] (3) Hutch. vol. 1, p. 316.

*Mr. Hubbard says, that this patent was in the hands of some gentlemen at Portsmouth, when he wrote. I have seen no copy of it but what is preserved in his MS. history. There is among the ancient files in the Recorder's office, an invoice of goods sent over in 1631, subscribed by all the above names, except the last, in whose stead is subscribed William Gyles.

" Ambrose Gibbons, George Vaughan, Thomas Warnerton, Humph-
" rey Chadbourne and one Godfrey, as superintendants of the sev-
" eral businesses of trade, fishery, salt-making, building and hus-
" bandery. Neal resided at Little-Harbor with Godfrey, who had
" the care of the fishery. Chadbourne built a house at Strawberry-
" bank, which was called *the great house*, in which Warnerton re-
" sided. Gibbons had the care of a saw-mill, and lived in a palisa-
" ded house at Newichwannock, where he carried on trade with
" the Indians. He afterward removed to Sanders'-point, where the
" adventurers gave him a settlement for his faithful services. He
" was succeeded at Newichwannock by Chadbourne, whose poster-
" ity are persons of principal figure and interest there at this day.
" The proprietors were also careful to provide for the defence of
" their plantations, and sent over several cannon which they di-
" rected their agents to mount in the most convenient place for a
" fort. They accordingly placed them on the northeast point of
" the Great-Island at the mouth of the harbor, and laid out the
" ground 'about a bow-shot from the water-side to a high rock, on
" which it was intended in time to build a principal fort.' "

In page 18 of Belknap, it appears that Dover, in New Hampshire, was settled in the year 1633–4. Exeter, in 1638.

" About the same time, a plantation was formed at Winnicumet,
" which was called Hampton. The principal inducement to the
" making this settlement was the very extensive salt-marsh, which
" was extremely valuable, as the uplands were not cultivated so as
" to produce a sufficiency of hay for the support of cattle. With a
" view to secure these meadows, the general court of Massachusetts
" had in 1636, empowered Mr. Dummer of Newbury, with John

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"Spencer, to build an house there at the expense of the colony, "which was to be refunded by those who should settle there. Ac- "cordingly, an house was built, and commonly called the Bound- "house; though it was intended as a mark of possession rather than "of limits. The architect was Nicholas Easton, who soon after "removed to Rhode-Island, and built the first English house in "Newport.

"This entrance being made, a petition was presented to the court "by a number of persons, chiefly from Norfolk in England, praying "for liberty to settle there, which was granted them. They began "the settlement by laying out a township in one hundred and forty- "seven shares; and having formed a church, chose Stephen Batch- "elor for their minister, with whom Timothy Dalton was soon after "associated. The number of the first inhabitants was fifty-six.

"The authority of Massachusetts having established this settle- "ment, they, from the beginning, considered it as belonging to their "colony. Though the agent of Mason's estate made some objec- "tion to their proceeding, yet no legal method being taken to con- "trovert this extension of their claim, the way was prepared for one "still greater, which many circumstances concurred to establish."

By Hutchinson's History of Massachusetts, it appears that Captain Neal came over with three others, for Gorges and Mason, in 1630, and settled at Piscataqua. p. 204.

In 1631, several others came over for Gorges and Mason, and settled Strawberry Bank, Portsmouth. p. 105.

Several others, in 1640, and entered into a voluntary compact of Government. p. 106.

Wheelwright settled Exeter, in 1638. p. 107. Dover the same year.

That three distinct Colonies or independent Governments were formed. p. 108. Hutchinson says—

"The settlers at Piscataqua, about the same time, submitted themselves to the Massachusetts government. The submission and agreement upon record is as follows:

"'The 14th of the 4th month, 1641.

"Whereas some Lords, Knights, Gentlemen and others, did purchase of Mr. Edward Hilton, and some merchants of Bristol, two patents, the one called Weconamet or Hilton's point, commonly called or known by the name of Dover or Northam, the other patent set forth by the name of the south part of the River Pascataquack, beginning at the sea side or near thereabouts, and coming round the said land by the river side unto the Falls of Quamscot, as may more fully appear by the said grant. And whereas others also, residing at present within the limits of both the said grants, have, of late and formerly, complained of the want of some good government amongst them, and desired some help in this particular from the jurisdiction of the Massachusetts Bay, whereby they may be ruled and ordered according unto God, both in church and common weal; and for avoiding of such unsufferable disorders, whereby God hath been much dishonored amongst them, these gentlemen whose names are here specified, George Willys, gent., Robert Saltonstall, gent., William Whiting, Edward Holioke, Thomas Makepeace, partners in the said patent, do, in the behalf of the rest of the patentees, dispose of the lands and jurisdiction of the premises as followeth; being willing to further such a good work, have hereby, for themselves and in the name of the rest of the patentees, given up and set over all that power or jurisdiction of government of the said people dwelling or abiding within the limits of both the said patents unto the government of the Massachusetts Bay, by them to be ruled and ordered in all causes criminal and civil, as inhabitants dwelling within the limits of Massachusetts government, and to be subject to pay in church and commonwealth as the said inhabitants of Massachusetts Bay do, and no other; and the freemen of the said two patents to enjoy the like liberties as other freemen do within the said Massachusetts government; and that there shall be a court of justice kept within one of the two patents, which shall have the same power that the courts at Salem and Ipswich have. Provided always, and it is hereby declared, that one of the said patents, that is to say, that on the south side of the river Piscataquack, and in the other patent one third part of the land with all improved land in the said patent to the lords and gentlemen and owners, shall be and remain, unto them their heirs and assigns forever, as their proper right, as having true interest therein, saving the in-

"terest of jurisdiction to the Massachusetts. And the said patent "of Wecohamet shall be divided, as formerly is expressed, by in- "different men, equally chosen on both sides, whereby the planta- "tion may be furthered, and all occasion of difference avoided. "And this honored court of the Massachusetts doth hereby promise "to be helpful to the maintenance of the right of the said patentees "in both the patents, all legal courts in any part of their jurisdiction.

"Subscribed by the aforenamed gentlemen, in the presence of the "general court assembled, the day aforewritten."*

"The river of Newichewannock, or Piscataqua, is said to have "been first discovered by Capt. Smith, or some employed by him, "in 1614 or 1615. De Monts, ten years before, had been at Ken- "nebec and Saco, and some leagues further westward along shore; "but struck over from some part of Welles, by the description he "gives of the coast, to Cape Ann, which he calls Cape Louis, and "from thence to Cape Blanc, which must be Cape Cod. In the year "1623, several gentlemen, merchants and others in the west of Eng- "land, belonging to Bristol, Exeter, Dorchester, Shrewsbury, Plym- "outh, &c., having obtained patents from the Council of Plymouth, "for several parts of New England, and being encouraged by the "plantation of New Plymouth, and the reports of fishermen who "had made voyages upon the coast, projected and attempted a fish- "ery about Piscataqua, and sent over David Thompson, together "with Edward Hilton and William Hilton, who had been fishmon- "gers in London, and some others, with all necessaries for their pur- "pose. The Hiltons set up their stages some distance above the "mouth of the river, at a place since called Dover. Some others "of the company, about the same time, seized on a place below at "the mouth of the river, called Little Harbor, where they built the "first house. Sir Ferdinando Gorges and Capt. John Mason were "of this company, and the place where this house was built, with "three or four thousand acres of land for a manor or lordship, by "consent of the rest of the undertakers, was assigned to Capt. Ma- "son, and the house took the name of Mason-hall.†

"These settlements went on very slowly for seven years after; "and in 1631, when Edward Colcott‡ first came over, there were "but three houses in all that side of the country adjoining to Pisca- "taqua river. There had been some expense besides about salt "works. The affairs of the great council of Plymouth, from first "to last, were carried on in a confused manner. There have been "six or seven several grants of the lands between Merrimack and

* Mass. Records.

† The chimney and part of the stone wall were standing in 1680.—*Hubbard.*

‡ He was afterwards chose, by some of the planters about Dover, their head or governor.—*Hubbard.*

"Kennebeck. Whether any of them, besides those to Gorges and "the Massachusetts, are at this day of any validity, I will not deter- "mine.* In 1629, Gorges and Mason are said to have taken a pa- "tent together for all the lands between the two rivers; and by mu- "tual agreement, and by a distinct patent, all the lands from Pisca- "taqua to Merrimack were assigned to Mason.† Gorges seems to "have laid no great stress upon his title, for in 1639, he obtained a "patent under the great seal from King Charles the First. The "Lords Say and Brooke, who were very general adventurers, they "purchased the Bristol mens' share, which was two thirds of the "first company's interest. Some persons of Shrewsbury held the "other third. Capt. Wiggan was made the agent for the Shrews- "bury men. In the year 1630, Captain Neale, with three others, "came over to Piscataqua to superintend the affairs of Sir Ferdi- "nando Gorges, Mason, and the rest, but principally to discover a "new country, to which they gave the name of Laconia, and which "in Gorges' history is very pompously described. Champlain, many "years before this, had given his own name to Lake Iroquois, and "the English, it may be, were informed by the Indians something "of the geography of the country, and of other lakes on the back "of New England, and no doubt the rumor was carried over to "England. Neale spent three years in searching out his new coun- "try, but could not find it, and so returned. Nothing else memo- "rable is mentioned of Neale, except that he forbade Wiggan set- "tling a point of land betwixt Dover and Exeter. Wiggan went "on, and determined to defend his right by the sword. The other "threatened as high; and from what might have happened, the "disputed land took the name of Bloody Point, which it retains to "this day. The Lords Say and Brooke, also, made Wiggan their "agent for the term of seven years; during which time the inter- "est was not greatly advanced, the whole being sold to him, at the "expiration of the term, for six hundred pounds.

"Soon after the year 1631, one Mr. Williams came over from "England, sent also by Gorges and Mason, to take care of their salt "works. Mr. Chadburne,‡ with several other planters and traders, "came over with him. These began the settlement of Strawberry "Bank, (Portsmouth,) and after Neale went away, they are suppo- "sed either to have entered into an agreement and to have chosen "Williams for their governor, who is said to have been a discreet, "sensible man, and a gentleman, or else he was appointed by the "company in England. There was a grant of a sum of money for

* Benighton's patent, upon Saco river, was early, and divers persons hold under it.

† Hubbard.

‡ Mr. Chadburne had the direction of the artificers who built what was called the great house at Strawberry Bank. His posterity are settled on the other side of the river, in the province of Maine.

"building a parsonage house and a chapel, and for a glebe of 50 "acres of land to be annexed, made by the inhabitants of Straw- "berry Bank, to Thomas Walford and Henry Sherburn, church "wardens, and their successors, &c., and this was signed by Fran- "cis Williams, governor, Ambrose Gibbons, assistant, and 18 in- "habitants, dated May 25, 1640. Williams soon after removed to "Barbadoes. The first who enterprised the settlement of Piscata- "qua, had some religious as well as civil views, and a puritan min- "ister, Mr. Leveridge, a worthy man, came over with Capt. Wig- "gan, in 1633, but not being supported, he removed to the south- "ward, and was succeeded by Mr. Burdet, who has not left so good "a character. Not contented with his sacred function, he invaded "the civil government, and thrust out Capt. Wiggan, and assumed "the place of governor himself.

"In the mean time, the Lords, and others concerned, had pre- "vailed upon several persons of good estates, and who made pro- "fession of religion, to transplant themselves and families to Pisca- "taqua, so as to be able to make inhabitants enough for a consider- "able township; and having no charter commission or power of "government from the crown, they were under necessity of enter- "ing into a combination or agreement among themselves, which "was in the following form:

"'Whereas sundry mischiefs and inconveniencies have befallen "us, and more and greater may, in regard of want of civil govern- "ment, his gracious Majesty having settled no order for us, to our "knowledge, we whose names are under written, being inhabitants "upon the river Piscataqua, have voluntarily agreed to combine our- "selves into a body politic, that we may the more comfortably en- "joy the benefit of his Majesty's laws; and do hereby actually en- "gage ourselves to submit to his royal Majesty's laws, together with "all such laws as shall be concluded by a major part of the free- "men of our society, in case they be not repugnant to the laws of "England, and administered in behalf of his Majesty. And this we "have mutually promised and engaged to do, and so to continue "till his excellent Majesty shall give other orders concerning us. "In witness whereof we have hereunto set our hands, October 22, "in the 16th year of the reign of our sovereign Lord Charles, by "the grace of God, King of Great Britain, France and Ireland, de- "fender of the faith, &c.'

"Signed by Thomas Larkham, Richard Waldron, William "Waldron, with thirty-eight more.

"About the same time, viz. in 1638, Mr. Wheelwright, the min- "ister who had been banished from the Massachusetts, with a num- "ber of persons who adhered to him, began a plantation on the "south side of the great bay up Piscataqua River, to which they

"gave the name of Exeter. They thought it necessary likewise "to form themselves into a body politic, in order to enable them to "carry on the affairs of their plantation. The instrumenr which "they determined upon, was of the following form:

"'Whereas it hath pleased the Lord to move the heart of our "dread sovereign Charles, &c., to grant license and liberty to sun- "dry of his subjects to plant themselves in the western parts of "America: We his loyal subjects, members of the church of Exe- "ter, situate and lying upon the river Piscataqua, with other inhab- "itants there, considering with ourselves the holy will of God, and "our own necessity, that we should not live without wholesome "laws and civil government amongst us, of which we are altogeth- "er destitute, do, in the name of Christ and in the sight of God, "combine ourselves together to erect and set up among us such "government as shall be, to our best discerning, agreeable to the "will of God; professing ourselves subject to our sovereign Lord "King Charles, according to the liberty of the English colony of "the Massachusetts, and binding ourselves solemnly, by the grace "and help of Christ, and in his name and fear, to submit ourselves "to all such christian laws as are established in the realm of Eng- "land, to our best knowledge, and to all other such laws which "shall upon good grounds be made and enacted among us according "to God, that we may live quietly and peaceably together in all "godliness and honesty. October 4, 1639. John Wheelwright, "William Wentworth, George Walton,' with 32 more. Captain "Underhill, an enthusiast who obtained his assurance, as he ex- "pressed himself before the church of Boston, while he was taking "pipe of the good creature tobacco,* and who was at the same time "a very immoral man, and for adultery had been excommunicated, "joined Mr. Wheelwright's company, and played his card so well, "that he obtained the place of governor over them, and also over "the other company at Dover, they having quarreled with Mr. Bur- "det, the minister, who removed to York. There was a strong "party against Underhill, which caused great disturbance and con- "fusion. At the same time they were as much divided in their "ecclesiastical affairs. They at Dover had one Mr. Knolles for "their minister, but Mr. Larkham arriving there from Northam, near "Barnstable, in England, many people were taken with him, and "determined to dismiss Knolles; but his party stood by him, and "he and his company excommunicated Larkham. He in return "laid violent hands on Knolles. The magistrates took part, some "on one side and some on the other; but Larkham's party, being "weakest, sent to Williams the governor below, for assistance, who "came up with a company of armed men, beset Knolles' house, "where Underhill the governor then was, called him to account,

* Hubbard, &c.

"set a fine upon him and some others who had been concerned in "the riot, and obliged them to remove from the plantation. Knolles "was a rigid antinomian; his practice was agreeable to his princi- "ples. He was charged with being too familiar with some of his "female domestics, and found it necessary to depart. Larkham, a "zealous churchman, soon followed him for an offence of the same "nature.* Thus we see three distinct colonies and independent "governments formed upon Piscataqua River.

"During these transactions, the Massachusetts people were en- "quiring into the bounds of their patent. In 1639, they sent per- "sons to find out the northernmost part of Merrimack River. A "line to run east, from three miles north of the head of the river, "will take in the whole of New Hampshire.† They determined "therefore that it came within their jurisdiction, and from that time "they allowed plantations to be settled, particularly at Hampton, "as readily as in any other part of the colony, and exercised juris- "diction over them; but they left those upon the river to their lib- "erty; and it was their inability to preserve order among themselves, "which occasioned the application and submission which has al- "ready been mentioned. At their session in October, the court "passed the following order:

"'Whereas it appeareth that, by the extent of the line according "to our patent, the river of Piscataquack is within the jurisdiction "of the Massachusetts, and conference being had at several times "with the said people, and some deputed by the general court for "the settling and establishing of order in the administration of jus- "tice there; it is now ordered by the general court, holden at Bos- "ton, this 9th day of the 8th month, 1641, and with the consent of "the inhabitants of the said river, as followeth: Imprimis, That "from henceforth the said people, inhabiting there, are and shall be "accepted and reputed under the government of the Massachusetts, "as the rest of the inhabitants within the said jurisdiction are. "Also, that they shall have the same order and way of administra- "tion of justice, and way of keeping courts as is established at Ips- "wich and Salem.‡ Also, they shall be exempted from all public "charges, other than those that shall arise for or from among them- "selves, or from any action or course that may be taken to procure "their own good or benefit. Also, they shall enjoy all such lawful "liberties of fishing, planting, and selling timber, as formerly they

* I have taken the principal facts, relative to the settlement of Piscataqua, from Hubbard's, and other original ancient manuscripts.

† The bounds in the Charter being three miles south of Charles River, and all and every part thereof, and three miles north of Merrimack and all and every part thereof, and all lands within the limits aforesaid in latitude and breadth, and in length and longitude, &c., they supposed they had a right to stretch their line east from the head of Merrimack to the ocean.

‡ Parts of the Massachusetts nearest to Piscataqua.

"have enjoyed in the same river. Mr. Simon Broadstreet, Mr. "Israel Stoughton, Mr. Samuel Simonds, Mr. William Tyng, Mr. "Francis Williams, and Mr. Edward Hilton, or any four of them, "whereof Mr. Broadstreet, or Mr. Stoughton to be one, these shall "have the same power that the quarter courts at Salem and Ipswich "have. Also, the inhabitants there are allowed to send two depu- "ties from the whole river to the court at Boston. Also, Mr. Broad- "street, Mr. Stoughton, and the rest of the commissioners, shall "have power at the court at Piscataquack, to appoint two or three "to join with Mr. Williams and Mr. Hilton to govern the people as "the magistrates do here, till the next general court, or till the court "take further order. It is further ordered, that until our com- "missioners shall arrive at Piscataquack, those men who already "have authority, by the late combination, to govern the people "there, shall continue in the same authority and power, to be de- "termined at the coming of the said commissioners, and not before.' "Although nothing is said of Strawberry Bank, in the submission, "yet all the settlements seem to have concurred, and Williams, the "governor below, was made one of the magistrates.

"The Massachusetts, by thus extending its wing over the inhab- "itants of New-Hampshire, nourished and cherished them for near "40 years; and to this must be attributed the growth and the pres- "ent flourishing state of that colony. The principal inhabitants, "when the benefit was recent, in 1680, made a public and grateful "acknowledgment of it. Upon this construction of the charter, the "whole province of Maine is taken into the Massachusetts, as well "as New Hampshire; but no application being made by the people "there, nothing was done concerning them. Mr. Wheelwright and "others, who had been banished from the Massachusetts, soon after "removed to the province of Maine, from New Hampshire."

See Belk. p. 55-57 for line run in 1652 to the Lake 43-40- Casco Bay 43-40

The earliest mention of the southern bounds of Massachusetts is found in 1 Winthrop, 283–4.

"Another plot the old serpent had against us, by sowing jealous-

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"ies between us and our friends at Connecticut and Plymouth. "This latter was about our bounds. They had planted Scituate, "and had given out all the lands to Conyhasset. We desired only "so much of the marshes there, as might accommodate Hingham, "which being denied, we caused Charles River to be surveyed, and "found it come so far southward as would fetch in Scituate, and "more; but this was referred to a meeting between us.

In a note it is said: 'Relative to the survey of Charles river and the line between Plymouth and Massachusetts, which frequently was matter of controversy, the earliest notice in our colony records 1–228, is 6th Sept., 1638.'

"The town of Dedham is desired to spare two that are most fit "to go with goodman Woodward and goodman Johnston (if he can "spare time) to lay out the most southernmost part of Charles River. "Woodward was often employed in such business, and at the same "Court was ordered to survey the line north of the Merrimack."

"Plimouth colony adjoining to the Massachusetts, some short dis- "putes subsisted between them concerning bounds. In order to "settle the controversy, commissioners were appointed in the year "1640, viz. John Endicot and Israel Stoughton for the Massachu- "setts, and William Bradford and Edward Winslow for Plimouth. "It was not then effected. An observation had been taken by Na- "thaniel Woodward, in the year 1638, upon part of Charles river, "41 degrees 59 minutes north latittude, the river still running south- "ward; the persons employed not being able to proceed farther for "want of provisions. In 1642, the northern bounds of the Mas- "sachusetts were ascertained by the same Woodward, with Solo-

"oman Saffrey,* and a station fixed, which has since been allowed "to be the Massachusetts corner three miles south of Charles river; "and from this corner, the lines between the Massachusetts and "the governments of Plimouth, Rhode-Island, and Connecticut have "been run and confirmed by acts of the several governments.†"

"In the year 1664, the line between the Massachusetts and Pli- "mouth was fully and amicably settled and ran, by a committee "from each colony, their return being accepted by the general "court of the Massachusetts, and ordered to be recorded; and there "is no doubt the general court of Plimouth colony accepted it like- "wise ‡"

After long and various disputes between the heirs of Mason and the Province of Massachusetts in relation to the northern bounds of Massachusetts, Mason finally petitioned the king and council. The copy of the petition, the answer of Massachusetts and the decision of the king, under the advice of the chief justices of the king's bench and common pleas was obtained.

* Douglas says, they were two obscure sailors who assisted in the survey, but they are called in the record, two able mathematicians.

† There has been a pretence started or revived of late years, that the Massachusetts had extended the southerly part of Charles river to a brook too small to be accounted a branch of it; but such pretences, after so many years acquiescence, can have little weight; especially if it be considered, that what is now a small brook, after the country has been opened and cleared of wood for an hundred years, may probably have been a navigable stream for canoes and boats at the time of fixing the station.

‡Although there have been disputes concerning this line since the present charter, between the proprietors of the towns in the county of Plimouth and Suffolk which were bounded by the colony lines, yet the station from whence they then began to run has never been doubted. The committee say in their return, "We all mutually agreed upon the first station, having measured three miles southerly of the southern-most part of said river." Charles river being just before mentioned.

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No. 22. *Copy of Robert Mason's Petition to the King.*

"To the King's most excellent majesty—The humble petition "of Robert Mason, proprietor of the province of New-Hampshire, in "New-England, sheweth,"

"That your majesty's royal grandfather king James of ever bless- "ed memory, did by his highnesses' letters patent under the great "seal of England, bearing date at Westminster, the third day of "November, in the eighteenth year of his reign, give, grant and "confirm unto several of the principal nobility and gentry of this "kingdom by the name of the council of New-England, their suc- "cessors and assigns forever, all the land in America lying betwe n "the degrees of 40 and 48 north latitude, by the name of New-Eng- "land, to be held in fee, with many royal privileges and immunities, "only paying to his majesty, his heirs and successors, one fifth part "of all the ore of gold and silver that should at any time be found "upon the said lands, as by the said letters patents doth at large ap- "pear.

"That John Mason, Esq., your petitioner's grandfather, by virtue "of several grants from the said council of New-England under "their common seal, bearing date the 9th of March, 1621, the 10th "of August, 1622, the 7th of November, 1629, and the 22d of April, "1635, was instated in fee in a great tract of land in New-England, "by the name of New-Hampshire, lying upon the sea-coast between "the rivers of Naumkeak and Pascataqua, and runuing up into the "land westward threescore miles, with all the islands lying within "five leagues distance of any part thereof, and also the south half "of the Isles of Shoals; and also the said John Mason, together "with Sir Ferdinando Gorges, knt. was enfeoffed by the aforesaid "council of New-England in other lands by the name of Laconia, "by their deed bearing date the 27th day of November, 1629, the "said lands lying and bordering upon the great lakes and rivers of "the Iroquois and other nations adjoining. All which said lands to "be held as fully, freely, in as large ample and beneficial manner "and form to all intents and purposes whatsoever as the said coun- "cil of New-England by virtue of his majesty's said letters patents "might or ought to hold and enjoy the same, as by the said several "grants appears.

"Whereupon your petitioner's said grandfather did expend up- "wards of twenty-two thousand pounds in transporting people, "building houses, forts, and magazines, furnishing them with great "store of arms of all sorts, with artillery great and small, for de- "fence and protection of his servants and tenants, with all other "necessary commodities, and materials for establishing a settled "plantation.

"That in the year 1628, in the fourth year of the reign of your "majesty's royal father, some persons did surreptitiously and *un- "known to the said council*, get the seal of the said council affixed

"to a grant of a certain lands, whereof the greatest part were sol-
"emnly past unto your petitioner's grandfather and others long be-
"fore, and soon after did the same persons *by their subtile practices*
"get a confirmation of the said grant under the great seal of Eng-
"land, as a corporation by the name of THE CORPORATION
"OF THE MASSACHUSETTS BAY IN NEW-ENGLAND,
"*your majesty's royal father being unwitting thereof*, and having
"thus *by fraud* obtained a grant and confirmation, they compelled
"the rightful inhabitants to desert their plantation, and by many
"outrageous actions they became possessed of that part of the coun-
"try, declaring themselves to be a free people, framing to them-
"selves new laws, with new methods in religion absolutely contrary
"to the laws and customs of this your majesty's realm of England,
"punishing divers that would not approve thereof, some by whip-
"ping, others by burning their houses, and some by banishing, and
"the like.

"At last the complaints of the oppressed subjects reaching the
"ears of your royal father, his majesty caused the whole matter to
"be examined before his most honorable privy council and all being
"fully proved, his majesty did command the council of New-Eng-
"land to give an account, by what authority, or by whose procure-
"ment those people of the Massachusetts Bay were sent over, his
"majesty conceiving the said council to be guilty thereof.

"But the said council of New-England made it plainly to appear
"to his majesty that they were ignorant of the whole matter and
"that they had no share in the evils committed and wholly disclaim
"the same, and the said council finding they had not sufficient
"means to give redress and rectify what was brought to ruin, they
"humbly referred it to his majesty to do therein as he pleased, and
"thereupon the said council of New-England resolved to resign, and
"did actually resign, the great charter of New-England into his
"majesty's royal hands, seeing there was an absolute necesity for
"his majesty to take the management of the country to himself, it
"being become a business of high consequence and only to be rem-
"edied by his sovereign power, all which appears by the declaration
"of the council of New-England, dated the 25th of April, 1635, to-
"gether with the act of surrender of the great charter of New-Eng-
"land, dated the 7th day of June, the same year.

"That immediately thereupon, his majesty in trinity term, 1635,
"caused a quo warranto to be brought up by Sir John Banks, his
"majesty's then attorney general, against the governor, deputy gov-
"ernor, and every of the assistants of the said corporation of Massa-
"chusetts in New-England severally, according to their names men-
"tioned in the said patents of incorporation, being twenty-six per-
"sons, whereof two being dead, of the remaining twenty-four per-
"sons, there did fourteen at several times appear at the king's bench
"bar and there disclaimed the charter, the remaining ten persons

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" were outlawed, and there upon judgment given for the king, that " the liberties and franchises of the said corporation of Massachu- " setts Bay should be seized in the king's hands and the body of " the governor to be taken into custody for usurping the said liber- " ties, all which appears by the rolls in the crown office, and office " custos brevium for the king's bench of the proceedings in the sev- " eral terms from the year 1635 to 1637.

" That thereupon his said royal majesty on the 3d day of May, " 1637, did order in council that the attorney general be required " to call for the said patent and present the same to the board, and " his majesty by his declaration of the 23d of July, 1637, in the 13th " year of his reign declared his royal pleasure for establishing a gen- " eral government in his territory of New-England for the preven- " tion of the evils that otherwise might ensue for default thereof, " thereby declaring Sir Ferdinando Gorges to be governor general " of the whole country and requiring all persons to give their obe- " dience accordingly.

" That the wars and troubles immediately ensuing in Scotland " and presently after here in England, did hinder his said majesty " from settling that country or prosecuting the right which he in- " tended his subjects, however the proceedings of his majesty caused " some restraint to the further violences and oppressions of the said " Massachusetts, and they contained themselves for a time within " their pretended bounds, but no sooner was that king of blessed " memory, your royal father, become a sacrifice, but they renewed " their former violences by oppressing all the other colonies and de- " signing by encouragement from some in England to erect them- " selves into a commonwealth, and in order to lay a foundation for " this power and dominion which they now aspired unto, they " thought it necessary to extend their bounds and spread into a lar- " ger territory than as yet they usurped, and that this work might " not be done without a mask or color of right, they do in an assem- " bly held at Boston, the 19th of October, 1652, seriously peruse the " grant (which had been procured as aforesaid) and therein weigh- " ing the words, and trying what new sense they might bear more " suitable to their increase of power they thought fit at length to " declare themselves mistaken in what they had done in the year " 1631, when they erected bound-houses and had for so many years " confined themselves thereunto, whereas now by the help of an " imaginary line, or rather by a new reason of state, there is *a sense* " *imposed by themselves upon their own words*, and they stretch " their rights to near two hundred miles of land northward and as " much southward more than they were satisfied withal before, " swallowing up your majesty's petitioner as well as others, whose " properties were established long before the said people had any " being. And that they might give execution to this righteous sen-

" tence they presently invade and *by force of arms seize upon the* " *province of New-Hampshire*, and other lands of right belonging to " your petitioner, besides what they did to others, compelling the " inhabitants to swear to be true to them and to cast off their lawful " lords, and such as refused were either ruined, banished or impris- " oned, and any appeals to England utterly denied unto them, then " they proceed to coining of money with their own impress, raising " the coin of England, and acting in all matters in a most absolute " and arbitrary way. And although your petitioner by his agent Jo- " seph Mason did demand redress of the general court of Massachu- " setts setting at Boston in 1652, offering to make out the right and " title of your petitioner to the province of New-Hampshire and " other lands against all persons whatsoever, yet no restitution could " be obtained without a submission to their authority, and to hold " the lands from them which the petitioner then did refuse and hath " always refused, choosing rather to wait for more happy times " wherein to expect relief than by a legal resignation of his rights " to those who had none at all divest himself of what his ancestors " had purchased at so dear a rate : Your petitioner having as equal " a *right to the government* in the said province as he hath to the " land itself, all which appears by a report made to your majesty the " 15th of February, 1661, when your petitioner first exposed to your " majesty the oppressions under which he had so long groaned, in " the evil times, and which grieves him now much more to bear " while he has the protection of so just and gracious a sovereign to " resort to.

" Wherefore your petitioner most humbly implores your majesty " to take notice, that (by a plain discovery of what fraud in the be- " ginning and the length of troubled times has helped to conceal) " the Bostoners have no patent of incorporation at all, that yet they " have under color of right and authority from the crown devoured " your petitioner and other proprietors whose titles are by your maj- " esty's learned council allowed as strong as the law can make them.

" That all ways have been tried and methods used to obtain jus- " tice from the Bostoners, but all have proved ineffectual, that your " petitioner's losses have been so many and great, and his sufferings " so continued, that he cannot any longer support the burthen of " them. And when your majesty will but consider how small the " respect has been wherewith those people have treated your maj- " esty since your happy restoration, and what daily breaches are by " them made upon your majesty's acts of navigation, which turns so " greatly to the detriment of this kingdom in general, these losses " and sufferings of a particular subject cannot much be questioned, " so that your petitioner humbly hopes that your majesty will think " it high time to stretch forth your royal hand of justice to assist " you petitioner, that he may have the quiet possession of his prov- " ince, and reparation made him for the losses sustained, in such

" ways and methods as the importance of the case requires, and your " majesty in your royal wisdom shall think most fit.

" And your petitioner shall ever pray.

ROBT. MASON."

(From a copy in the possession of the Masonian proprietors.)

No. 23. *Copy of the answer of Massachusetts to Mason's and Gorges' complaints.*

" A brief declaration of the right and claim of the governor and com- " pany of the Massachusetts Bay in New-England, to the lands " now in their possession, but pretended to by Gorges and Mr. " Mason, together with an answer to their several pleas and com- " plaints in their petitions exhibited: Humbly presented and " submitted by the said governor and company to the king's most " excellent majesty, as their defence.

" In the year of our Lord, 1628, in the third year of his late maj- " esty Charles the First, of happy memory, several loyal and piously " disposed gentlemen obtained of the great council of New-England, " a grant of a certain tract of land lying in New-England, described " and bounded as therein expressed; which was in all respects fair- " ly and openly procured and with so good an intent of propagating " the gospel among the natives, and to advance the honor and dig- " nity of his late majesty, of happy memory, that they were bold to " supplicate his said majesty to superadd his royal confirmation " thereto, which accordingly in an ample royal charter was passed " and remains under the broad seal of England, March 4th, 1629, " in the fourth year of his majesty's reign, with further additions and " enlargements well becoming so royal a majesty, and suitable for " the encouragement of so hazardous and chargeable an adventure. " In pursuance whereof many of the said patentees and other ad- " venturers transported themselves and estates, and settled in the " most known and accommodable parts of those lands contained in " the said charter, neither time, estate, nor power suffering them " speedily to survey the just extent of their limits. Not many years " different in time, several others also of his majesty's subjects ob- " tained other grants, and made several settlements in the more " northern and eastern parts of the country, with whom for several " years we had neighborly correspondence, being as they supposed " without the limits of our patent, amongst whom the present claim- " ers and petitioners were. These grants partly by reason of the " smallness of some of them, and partly by reason of dark involved " and dubious expression of their limits, brought the inhabitants " under many entanglements and dissatisfactions among themselves, " which there being no settled authority to be applied to, being de- " serted and forsaken of all such as by virtue of said grants did " claim jurisdiction over them and had made a successless essay for

"the settlement of government among them, proved of some con-
"tinuance, unto the great disquiet and disturbance of those his
"majesty's subjects that were peaceable and well disposed amongst
"them; to remedy which inconvenience, they betook themselves
"to the way of combinations for government, but by experience
"found it ineffectual. In this time, ignorance of the northerly
"running of Merrimack River, hindered our actual claim and ex-
"tention of government, yet at length being more fully settled, and
"having obtained further acquaintance and correspondency with
"the Indians possessing the uppermost parts of that river, encoura-
"ging an adventure, as also frequent solicitations from the most
"considerable inhabitants of those eastern parts, earnestly desiring
"us to make proof of, and ascertain our interest, we employed the
"most approved artists that could be obtained, who upon their sol-
"emn oaths made returns, that upon their certain observation, our
"northern patent line did extend so far north as to take in all those
"towns and places which we now possess; which when the inhab-
"itants as well as ourselves were satisfied in, (urged also with the
"necessity of government amongst them) they peaceably and vol-
"untarily submitted to the government of the Massachusetts, viz:
"Dover, Squamscot and Portsmouth, anno 1641, Kittery, York,
"and Wells, anno 1652 and 1653, from which times until the year
"1662, when there was a small interruption by a letter of Mr. Gor-
"ges, and afterwards in the year 1665, (when his majesty's com-
"missioners, Colonel Nicolls and others, came over) the inhabitants
"of those parts lived well satisfied and uninterrupted under the
"Massachusetts government. But when the said commissioners,
"neither regarding the Massachusetts' just right nor the claims of
"Mr. Gorges and Mr. Mason, settled a new form of government
"there, but this hardly outlived their departure, the people impa-
"tient of innovations, and well experienced and satisfied in their
"former settlement, quickly and quietly returned to order again,
"and so continue unto this time. This is in a few words the true
"state of the matter; for the further illustration whereof and justi-
"fication of our proceedings therein, and vindication of ourselves
"from the reproachful imputation of usurping authority over his
"majesty's subjects in the eastern parts pretended to, with other
"scandals cast upon us by the petitioners, we humbly present the
"following pleas, by way of demonstration, and argue that our ex-
"tension of government to those eastern parts claimed is agreeable
"to our indubitable patent right; our patent according to the ex-
"press term therein contained without any ambiguity or color of
"other interpretation, lies *between two east and west parallel lines*
"*drawn from the most southerly part of Charles River, and the*
"*most northerly part of Merrimack, with three miles advantage*
"*upon each*, which upon the observation of men of approved and
"undoubted truth upon oath, are found distant one degree and for-

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" ty-nine minutes north latitude, being to extend in full latitude and
" breadth from sea to sea, (ut in terminis) and therefore cannot be
" bounded by many hundreds or infinite numbers of lines, as the
" River Merrimack maketh bends or angles in two hundred miles
" passage from Winnipiseogee lake to the mouth thereof, which to
" imagine, as it is irrational, so would it involve us and any borderer
" into so many inextricable disputes as are by no ways to be ad-
" mitted by a prince seeking his subjects' peace. Besides, were
" such a construction allowable, (which with uttermost straining is)
" yet all favorable interpretation is to be offered the patentees by the
" gracious expression of the charter. Now according to the afore-
" mentioned observation, (so confirmed) all those eastern plantations
" challenged by our opponents (ut supra) are comprehended within
" our northerly line. We deny not but the artists of themselves,
" and if any question thence arise, we fear not to submit to trial
" to the most exact and rigorous test that may be. The invincible
" strength of this our first plea, may further appear by the consider-
" eration of the frivolous and insignificant allegations of the peti-
" tioners in opposition thereunto, viz: 1st. The nonextension of
" our line or assertion of our right to those eastern parts for some
" years, ignorance, as our case was circumstanced, debarring no man
" of his just right, neither can it reasonably be supposed that the
" exact survey of so large a grant, in so hideous a wilderness, pos-
" sessed by an enemy, would be the work of a few years, our own
" poverty not affording means, and our weakness (allowing no deep
" adventure into the country) permitting us not to view the favora-
" ble running of the river, which none can imagine altered its course
" by our delay; we may as well be deprived of far more than we
" possess or ever saw on our western parts to the south sea, (which
" none will deny) because we have not surveyed it or are soon like
" to be able, as be taken from our northern right, so obvious to the
" meanest artist.

" 2dly. The possession-house in Hampton, of so little significa-
" tion, and so long since disused, that Mr. Mason hath forgot the
" name thereof, and calleth it bound-house, erected to give the
" world to know that we claimed considerably to the northward of
" our then habitations upon the bay, though we did not know the
" utmost extent of our right, our fathers not being so ignorant of
" the law of the realm to which they did appertain, as to suppose
" the taking possession of part did debar them of the remainder, but
" the contrary; and we challenge Mr. Mason or any on his behalf,
" promising our records shall be open to the most scrutinous search
" to prove it, either called or intended according to his abuse thereof.

" 3dly. That notorious falsehood of stretching our right to near
" four hundred miles north and south more than formerly we were
" satisfied with, our whole breadth being but one hundred and nine
" miles, which is not much more than a quarter part of what he

"would have the world believe our new claim and (as he would in-
"sinuate) usurped territory doth contain, arising (we would charita-
"bly believe) partly from ignorance of the coasting of the country,
"Mr. Mason accounting by the sea-side, and we suppose coasting
"in the measure of every harbor and cove to make up that calcula-
"tion, which lies much of it due east and not to the north, but we
"fear malevolently suggested, (as many other things as of little
"credit) to introduce into his majesty's royal breast a belief that
"we are unreasonable in our pretensions, and so unworthy of his
"majesty's favor, which we hope such unlawful endeavors will
"never be so prosperous as to obtain. What may be further added
"to this our first plea, may be supplied from the reasons formerly
"presented. We urge secondly, The invalidity of those grants
"pretended to by the petitioners, which are of two sorts; 1st.
"Such as bear date after ours, which we see no reason to fear any
"interruption from. Secondly, Such as are pretended to bear date
"before ours, against which we object that they are not authentic,
"wanting a sufficient number of grantors to make them so, none of
"them as we presume will appear upon trial having above six hands
"and seals annexed to them, the said council of New England con-
"sisting of forty, and his majesty's grant to them expressly requir-
"ing (as we are informed) seven at the least to sign to make any
"valid act; and indeed Mr. Mason's own often unwearied renewal
"of his grants in 1621, sixteen hundred twenty-two, sixteen hun-
"dred twenty-nine, and 1635, (as he saith) tacitly confesseth the
"same invalidity, in the former putting him to charge for the latter,
"till at last he fell into such a trade of obtaining grants, that his
"last and most considerable was six years after the grant of our
"charter from his majesty, and but three days before the said coun-
"cil's declaration of their absolute resolution to resign, and but a
"few days before their actual surrender, as he asserts; which of
"what value and consideration it is from the said council's circum-
"stanced under a necessity of resignation of their great charter,
"procured rather by the clamor of such ill affected persons as the
"present complaint, than by any true account of dissettlement or ill
"management here, is not difficult to judge. Hence it appears,
"first, how little reason Mr. Mason hath to brand us with fraud or
"surreptitiousness in obtaining our charter. Which hath most
"show of fraud and surreptitious procuration, a sufficient number
"of those honorable persons subscribing ours, and fewer his pre-
"tended antedated grants, is easy to determine. In which assertion
"is to be observed the high reflection cast upon the members of
"his late majesty and ministers of state, groundlessly rendering the
"council's seal, yea, the great seal of England, exposed to fraud
"and deceitful clandestine practices; yea, upon his present majesty,
"insinuating himself better acquainted with matters of state than
"he who allows and confirms our grant as authentic by his gracious

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"letter of sixteen hundred sixty-two, which intolerable boldness "how unbecoming (not to say more) in a subject, it is not easy for "us to say. To all which, we may add Sir Ferdinando Gorges' ap- "plication to the authority here to interpose in his affair, which he, "being one of the great council, would have been far from acknow- "ledging, had Mr. Mason's allegations been founded upon truth.

"Secondly. That articles of charge depending upon such illegal "and post-dated grants, cannot take place against us, were their "disburse as great as it is affirmed, which by eye witnesses upon "the place, and still living, are proved comparatively very incon- "siderable.

"3dly. We affirm that the whole management of the affair re- "specting our government of those eastern parts, was in an orderly "and peaceable way, and not without the reiterated and earnest so- "licitation of most of the people there inhabiting, sufficiently ap- "pearing by their several petitions; and we challenge Mr. Gorges "and Mr. Mason, by any living evidence or record to shew any "sign of a forcible entrance: Some magistrates, upon the clearing "of our right to them, and acceptance of the tender of themselves "to us, being sent thither without any other force than each of "them a servant to attend them. Indeed, some years after Capt. "Bonython, for mutinous carriage, was seized and brought to jus- "tice; concerning which and many other cases, many inhabitants "yet living, and eye witnesses, can give the most impartial evi- "dence.

"4thly. We offer to consideration that the deserted and ungov- "erned state of the people of those places, had we not had that pa- "tent right so clearly evinced, might warrant our actions; especial- "ly considering the obligation upon us to secure his majesty's hon- "or and maintain the public peace, so hazarded by the total want "of government amongst them. Our first exercise of jurisdiction "being in the year 1641, eight years after Capt. Neal, agent for Mr. "Mason, had wholly deserted the improvement of land and the "government of the country, which indeed he never used but one "year, for in the year 1630, he first came over, and in the year "1634, he quitted the place; and in the interim, neglected the same "in making a voyage for England, the short time of his tarriance "not admitting of settlement of government or improvement. We "may hereto subjoin, that Mr. Joseph Mason, agent for Mrs. Anne "Mason, when here, and all things were fresh in memory, made no "demand contrary to what is affirmed, but petitioned our justice "against his debtors there and elsewhere, and that Sir Ferdinando "Gorges, his grant being so mean and uncertainly bounded that he "knew not well how to find, much less to improve, to considerable "advantage, by his letter bearing date ————, doth devolve the "whole charge and care of his pretended province upon the autho- "rity here established. Lastly, That the exercise of jurisdiction

" in those eastern parts hath been and is his majesty's honor, the " people's great benefit, and our charge without profit, which had it " not been, the ruin of those parts would have unavoidably ensued " in the want of all government, and their seizure by the French, " who ever waited a fit opportunity for the same. They have part " of them for thirty-five years, and others twenty years, (some " small interruption intervening, producing the stronger inclination " and resolution in them to be constant to his majesty's authority " here,) lived under the government of the Massachusetts, a quiet, " well ordered and thriving people. And as for any complaint from " ill affected persons, it is well known that the best and wisest gov- " ernment is not without disquiet from some such; and no wonder " if silly people are soon affected with such fair glossing promises " as Mr. Mason hath made and published, as it were determining " the case before trial, by his late letters to the inhabitants in those " parts, and that our government in those places have been no gain, " is so unquestionable a truth, that never was any levy laid upon " them for the supply of the public treasury, though much hath " been and is further like to be expended for their security, who " otherwise will inevitably become an easy prey to the heathen, " now in hostility with us, and at this present time raging in those " parts.

" The before written, is a true copy transcribed from the records " of the general court of the late colony of the Massachusetts " Bay, held by the governor and company of the said colony, " at Boston, the 6th of September, 1676.

" Examd. per ISA. ADDINGTON, Sec'y."

No. 24. *Copy of the Report of the Lords Chief Justices, and the King's confirmation thereof.*

At the Court at Whitehall, July 20, 1677.

" (L. S.) Present, the King's most excellent majesty.

Lord Chancellor,	Earl of Craven,
Lord Treasurer,	Lord Bishop of London,
Lord Privy Seal,	Lord Maynard,
Duke of Ormond,	Lord Berkley,
Marquis of Worcester,	Mr. Vice Chamberlain,
Lord Chamberlain,	Mr. Secretary Coventry,
Earl of Northampton,	Mr. Secretary Williamson,
Earl of Peterborough,	Mr. Chancellor of the Exchequer.
Earl of Stratford,	Master of Ordnance,
Earl of Sunderland,	Mr. Speaker."
Earl of Bath,	

" Whereas the right honorable the lords of the committee for " trade and plantations, did, in pursuance of an order of the 7th of

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"February last, make report to the board, of the matters in contro-
"versy, between the corporation of the Massachusetts Bay, in New
"England, and Mr. Mason and Mr. Gorges, touching the right of
"the soil and government, claimed by the said parties in certain
"lands there, by virtue of several grants from his majesty's royal
"father and grandfather, as followeth, in these words,

"May it please your majesty,—Having received your majesty's
"order in council, of the 7th of February last past, whereby we
"are directed to enter into the examination of the bounds and lim-
"its, which the corporation of the Massachusetts Bay, in New Eng-
"land, on the one hand, and Mr. Mason and Mr. Gorges on the
"other, do pretend by their several grants and patents to have been
"assigned unto them, as also to examine the patents and charters
"which are insisted on by either side, in order to find out and set-
"tle how far the rights of soil and government do belong unto any
"of them. In consideration whereof, the lords chief justices of
"your majesty's courts of king's bench and common pleas, were
"appointed to give us their assistance, we did, on the 5th of April
"last, together with the said lords chief justices, meet in obedience
"to your majesty's commands, and having heard both parties by
"their counsel, learned in the law, we did recommend unto their
"lordships to receive a state of the claims made by both parties,
"and to return their opinions upon the whole matter unto us, which
"their lordships have accordingly performed, in the words following:

"In obedience to your lordships' order, we appointed a day for
"the hearing of all parties, and considering the matters referred,
"having received from them such papers of their cases as they were
"pleased to deliver; at which time all parties appearing, the re-
"spondents did disclaim title to the lands claimed by the petition-
"ers, and it appeared to us that the said lands are in the possession
"of several other persons, not before us, whereupon we thought not
"fit to examine any claims to the said lands, it being (in our opin-
"ion) improper to judge of any title of land, without hearing of
"the ter tenants, or some other persons on their behalf; and if there
"be any course of justice upon the place, having jurisdiction, we
"esteem it most proper to direct the parties to have recourse thither,
"for the decision of any question of property, until it shall appear
"that there is just cause of complaint, against the courts of justice
"there, for injustice or grievance.

"We did, in the presence of said parties, examine their several
"claims to the government, and the petitioners having waived the
"pretence of a grant of government from the council of Plymouth,
"wherein they were convinced, by their own counsel, that no such
"power or jurisdiction could be transferred or assigned by any color
"of law; the question was reduced to the province of Maine,

" whereto the petitioner, Gorges, made his title, by a grant from " king Charles the First, in the 15th year of his reign, made to Sir " Ferdinando Gorges, and his heirs, of the province of Maine, and " the government thereof. In answer to this, the respondents al- " leged, that long before, viz. in quarto Caroli primi, the govern- " ment was granted to them, and produced copies of letters patents, " wherein it is recited, that the council of Plymouth, having granted " to certain persons a territory thus described, viz: 'all that part of " New England in America, which lies and extends between a great " river that is commonly called Monomack alias Merrimack, and a " certain other river there, called Charles River, being in the bot- " tom of a certain bay there, called the Massachusetts Bay, and also " all and singular the lands and hereditaments whatsoever, lying " and being within the space of three English miles on the south " part of the said Charles River, or any or every part thereof; and " also all and singular the lands and hereditaments whatsoever, ly- " ing and being within the space of three English miles to the " southermost part of the said bay, called Massachusetts Bay; and " all those lands and hereditaments whatsoever, which [*lie*] within " the space of three English miles to the northward of the said " river, called Monomack alias Merrimack, or the northward of any " and every part thereof, and all lands and hereditaments whatsoever, " lying within the limits aforesaid, north and south in latitude and " breadth, and in length and longitude of and within all the breadth " aforesaid, throughout the main lands there, from the Atlantic and " western sea and ocean on the east part, to the south sea on the " west.' By the said letters patents, the king confirmed that grant, " made them a corporation, and gave them power to make laws for " the governing of the lands and the people therein. To which it " was replied, that the patent of 4° Caroli. 1^{mi} is invalid. 1. Be- " cause there was a precedent grant 18° Jacobi, of the same thing, " then in being, which patent was surrendered afterwards, and be- " fore the other 15° Car. 1^{mi}. 2. The grant of the government can " extend no farther than the ownership of the soil, the boundaries " of which as recited in that patent, wholly excludes the province " of Maine, which lies northward more than three miles beyond the " River Merrimack.

" We having considered these matters, do humbly conceive as to " the first matter, that the patent of 4° Caroli 1^{mi} is good, notwith- " standing the grant made in the 18° Jac: for it appeared to us by " the recital in the patent 4° Caroli 1^{mi} that the council of Plymouth " had granted away all their interest in the lands the year before, " and it must be presumed they then deserted the government; " whereupon it was lawful and necessary for the king to establish a " suitable frame of government, according to his royal wisdom, " which was done by that patent, 4° Caroli 1^{mi} making the adven- " turers a corporation upon the place. As to the second matter, it

"seems to us to be very clear that the grant of the government "4° Caroli 1mi extends no farther than the boundaries expressed in "the patent, and those boundaries cannot be construed to extend "further northwards along the River Merrimack, than three En- "glish miles, for the north and south bounds of the lands granted "so far as the river extends, are to follow the course of the river, "which make the breadth of the grant, the words describing the "length to comprehend all the lands from the Atlantic Ocean, to "the South Sea, of, and in all the breadth aforesaid, do not warrant "the over reaching those bounds by imaginary lines or bounds, "other exposition would (in our humble opinion) be unreasonable "and against the interest of the grant. The words 'of, and in all "the breadth aforesaid,' shew that the breadth was not intended an "imaginary line of breadth, laid upon the broadest part, but the "breadth respecting the continuance of the boundaries by the river, "as far as the rivers go, but when the known boundary of breadth "determines it must be carried on by imaginary lines to the South "Sea. And if the province of Maine lies more northerly than three "English miles from the River Merrimack, the patent of 4° Caroli "1mi gives no right to govern there, and thereupon the patent of the "same 15° Car. 1mi to the petitioner Gorges, will be valid. So that "upon the whole matter, we are humbly of opinion, as to the pow- "er of government, that the respondents, the Massachusetts and "their successors, by their patent of 4° martis 4° Caroli 1mi have "such right of government as is granted them by the same patent "within the boundaries of their land expressed therein, according to "such description and exposition, as we have thereof made as afore- "said, and the petitioner, Sir Ferdinando Gorges, his heirs and as- "signs, by the patent 3d April, have such right of government as "is granted them by the same patent, within (*the territory*) called "the province of Maine, according to the boundaries of the same "expressed in the same patent. RI. RAINSFORD, FRA. NORTH.

"All which being the opinion of the lords chief justices, and "fully agreeiug with what we have to report unto your majesty "upon the whole matter referred unto us by the said order, we "humbly submit the determination thereof unto your majesty.

ANGLESEY,	CRAVEN,	J. WILLIAMSON,
ORMOND,	H. LONDON,	THO. CHICKLEY,
BATH,	G. CARTERET,	EDW. SEYMOUR.

"Which having been read at the board the 18th instant, it was "then ordered that the said Mr. Mason and Mr. Gorges, as also that "the agents of the corporation of the Massachusetts Bay, should "be this day heard upon the said report, if they had any objections "to make thereunto. In pursuance whereof, all parties attending "with their counsel, who not alleging any thing so material as to

"prevail with his majesty and the board to differ in judgment from "the said report; his majesty was thereupon pleased to approve of "and confirm the same, and did order that all parties do acquiesce "therein, and contribute what lies in them to the punctual and due "performance of the said report, as there shall be occasion.

JOHN NICHOLAS.

(The above paper, of which the copy is attested by Edward Rawson, secretary of Massachusetts, and John Penhallow, clerk of the superior court of New Hampshire, is in the files of the said superior court, and in the Masonian proprietary office.)

Massachusetts had previous to this taken possession of Maine by the name of the County of York. An account of her proceedings may be found in Hutchinson, page 260 to 268. Hutchinson says, page 260,

"The court (general court of Massachusetts) thought it the part "of good *governors*, as well as good *judges* to *amplify their juris-* "*diction.*"

In 1677 Massachusetts purchased Maine from the heirs of Gorges. Belknap, p. 52.

In 1740 the question of the northern bounds of Massachusetts again came before the king and council, and was decided against Massachusetts.

"This censure being passed on the governor, and the complaints "being at an end, the way was prepared for a hearing of the ap- "peals, from both provinces, respecting the lines which 1740. "being had, the determination of this long controversy was Mar. 5. "made on a plan entirely new. The special part of the "decree of the commissioners was set aside, and no regard was had

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" to their *doubt*, whether the new charter granted all the lands com-
" prehended in the old. It was said, that when the first grant was
" made, the country was not explored. The course of the river,
" though unknown, was supposed to be from west to east; therefore
" it was deemed equitable, that as far as the river flowed in that
" course, the parallel line at three miles distance should extend.
" But as on the one hand, if by pursuing the course of the river, up
" into the country, it had been found to have a southern bend, it
" would have been inequitable to have contracted the Massachusetts
" grant; so, on the other hand, when it appeared to have a northern
" bend, it was equally inequitable to enlarge it. Therefore it was
" determined, 'That the northern boundary of the province of
" Massachusetts be, a similar curve line, pursuing the course of Mer-
" rimack river, at three miles distance, on the north side thereof,
" beginning at the Atlantic Ocean, and ending at a point due north
" of Pawtucket Falls; and a straight line drawn from thence due
" west, till it meets with his majesty's other governments.'* The
" other parts of the decree of the commissioners, respecting the
" northern line, and the payment of expenses, were affirmed.

" This determination exceeded the utmost expectation of New
" Hampshire; as it gave them a tract of country, fourteen miles in
" breadth, and above fifty in length, more than they had ever claim-
" ed. It cut off from Massachusetts, twenty-eight new townships,
" between Merrimack and Connecticut Rivers; besides large tracts
" of vacant land, which lay intermixed; and districts from six of
" their old towns, on the north side of the Merrimack; and if, as
" was then supposed, the due west line were to extend to twenty
" miles east of Hudson's river, the reputed boundary of New York;
" a vast tract of fertile country, on the western side of Connecticut
" river, was annexed to New Hampshire; by which an ample scope
" was given, first for landed speculation, and afterward for cultiva-
" tion and wealth."

* Council Records.

The description of the premises in the charter of the council of Plymouth to Robert Gorges of the 30th December 1621, is

"For ten English miles in a straight line towards the north-east, and 30 English miles into the main land, *through all the breadth aforesaid.*" 1 Hazard, p. 153.

The terms in the grant to Massachusetts are

"All the lands &c., lying within the limits aforesaid north and "south, in latitude and breadth, and in length and longitude *of and* "*within all the breadth aforesaid.*"

The principal grants were made in the following order of time.

3d Nov. 1620.	Charles the first to the Council of Plymouth between 40 and 48 degrees. 1 Haz. 103.
30th Dec. 1621.	The council of Plymouth to Sir Robert Gorges of ten miles by thirty, in the northern part of Massachusetts Bay. 1 Haz. 153.
19th Mar. 1628.	The Council of Plymouth to Henry Rosewell et al, of Massachusetts Bay, between Charles and Merrimack river, three miles advantage of each. This grant embraces the preceding. *Confirmed* by the king, 4th March, 1629.
13th Jan. 1629.	The Council of Plymouth to the colony of New Plymouth. 1 Haz. 298.
7th Nov. 1629.	The Council of Plymouth to John Mason of New-Hampshire, including a part of what had been granted to Massachusetts in March 1628. 1 Hazard, 289.
22d April, 1635.	The Council of Plymouth renewed their grant of New-Hampshire to Mason, with some slight differences of bounds. 1 Haz. 384.
7th June, 1635.	The Council of Plymouth surrendered its charter to the king. 1 Hazard, 393.

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3d April, 1639. The king granted the province of Maine to Ferdinando Gorges. 1 Haz. 442.

8th July, 1663. The king granted the charter to Rhode-Island. 2 Hazard, 612.

1684. The charter of Massachusetts vacated upon scire facias.

1691. The province charter granted, uniting several colonies.

TABLES.

Chief Magistrates of New Hampshire and Massachusetts, from 1641 to 1830; with the Kings of England from the first settlement of N. H., in 1623, until the separation of this country from Great Britain, and the Presidents of the United States, from the adoption of the Federal Constitution.

COLONIAL GOVERNMENT.

A. D.	Kings of England.	Governors of New Hampshire and Massachusetts, while united.
1623	James I.	
1625	Charles I.	
1641	"	Richard Bellingham.
1642	"	John Winthrop.
1644	"	John Endecott.
1645	"	Thomas Dudley.
1646	"	John Winthrop.
1649	The Commonwealth.	John Endecott.
1650	"	Thomas Dudley.
1651	"	John Endecott.
1654	"	Richard Bellingham.
1655	"	John Endecott.
1660	Charles II.	"
1665	"	Richard Bellingham.
1673	"	John Leverett.
1679	"	Simon Bradstreet.

PROVINCIAL GOVERNMENT.

A. D.	Kings of England.	Chief Magistrates of New Hampshire.	Chief Magistrates of Massachusetts.*
1680	Charles II.	John Cutt	Simon Bradstreet
1681	"	Richard Waldron	"
1682	"	Edward Cranfield	"
1685	James II.	Walter Barefoote	"
1686	"	Joseph Dudley	Joseph Dudley
1687	"	Edmund Andros	Edmund Andros
1689	William III.	Simon Bradstreet	Simon Bradstreet
1692	"	John Usher	William Phips
1697	"	William Partridge	"
1698	"	Samuel Allen	"
1699	"	Earl of Bellomont	Earl of Bellomont
1702	Anne.	Joseph Dudley	Joseph Dudley
1714	George I.	"	"
1716	"	Samuel Shute	Samuel Shute
1727	George II.	"	"
1728	"	William Burnet	William Burnet

* Massachusetts did not become a Province, until the Charter of William and Mary was granted, in 1691.

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1730	George II.	Jonathan Belcher	Jonathan Belcher
1741	"	Benning Wentworth	William Shirley
1757	"	"	Thomas Pownal
1760	George III.	"	Francis Bernard
1767	"	Johh Wentworth	"
1770	"	"	Thos. Hutchinson
1774	"	"	Thomas Gage
1775	The British government terminated.		

REPUBLICAN GOVERNMENT.

A. D.	United States.	Pres. & Gov's of N. H.	Governors of Mass.
1776		Meshech Weare	
1780		"	John Hancock
1785	Continental	John Langdon	James Bowdoin
1786	Congress.	John Sullivan	"
1787		"	John Hancock
1788		John Langdon	"
	Presidents U. S.		
1789	G. Washington.	John Sullivan	"
1790	"	Josiah Bartlett*	"
1794	"	John T. Gilman	Samuel Adams
1797	John Adams.	"	Increase Sumner
1800	"	"	Caleb Strong
1801	Tho. Jefferson.	"	"
1805	"	John Langdon	"
1807	"	"	James Sullivan
1809	James Madison.	Jeremiah Smith	Christopher Gore
1810	"	John Langdon	Elbridge Gerry
1812	"	William Plumer	Caleb Strong
1813	"	John T. Gilman	"
1816	"	William Plumer	John Brooks
1817	James Monroe.	"	"
1819	"	Samuel Bell	"
1823	"	Levi Woodbury	William Eustis
1824	"	David L. Morrill	"
1825	John Q. Adams.	"	Levi Lincolu
1827	"	Benjamin Pierce	"
1828	"	John Bell	"
1829	A. Jackson.	Benjamin Pierce	"
1830	"	Matthew Harvey	"

* From 1793, the chief magistrate of New Hampshire has been styled *Governor.*

DEATH AND AGES OF THE PRECEDING KINGS OF ENGLAND.

James I.	8	April,	1625,	58.
Charles I.	30	January,	1648,	47.
Charles II.	6	February,	1685,	54.
James II.	16	Septem'r,	1701,	68.
William III.	16	March,	1702,	52.
Anne	1	August,	1714,	50.
George I.	11	June,	1727,	67.
George II.	25	October,	1760,	77.
George III.	29	January,	1820,	81.

GOVERNORS,

WHILE MASSACHUSETTS AND NEW HAMPSHIRE WERE UNITED.

Richard Bellingham,	7	December,	1672,	80.
John Winthrop,	26	March,	1649,	61.
John Endecott,	15	March,	1665,	76.
Thomas Dudley,	31	July,	1653,	77.
John Leverett,	16	March,	1669.	
Simon Bradstreet,	27	March,	1697,	94.

CHIEF MAGISTRATES,

WHILE NEW HAMPSHIRE WAS A SEPARATE PROVINCE.

John Cutt,	27	March,	1681.	
Richard Waldron,	27	June,	1689,	80.
Edward Cranfield,		about	1700,	
Walter Barefoote,		about	1688,	53.
Joseph Dudley,	2	April,	1720,	72.
Edmund Andros,		February,	1714.	
John Usher,	5	September,	1726,	78.
William Partridge,	3	January,	1729,	74.
Samuel Allen,	4	May,	1705,	69.

GOVERNORS OF MASSACHUSETTS AND NEW HAMPSHIRE,

UNTIL THE REVOLUTION.

William Phips,	18	February,	1695,	44.
Earl of Bellomont,		March,	1701,	
Samuel Shute,	15	April,	1742,	80.
William Burnet,	7	September,	1729,	41.
Jonathan Belcher,	31	August,	1757,	75.
William Shirley,	24	March,	1771.	
Benning Wentworth,	14	October,	1770,	75.
Thomas Pownall,	25	February,	1805,	83.

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Francis Bernard,		June,	1779.	
John Wentworth,	8	April,	1820,	84.
Thomas Hutchinson,	3	June,	1780,	69.
Thomas Gage,		April,	1787.	

GOVERNORS OF MASSACHUSETTS AND NEW HAMPSHIRE,

SINCE THE REVOLUTION, WHO HAVE DECEASED.

Meshech Weare,	15	January,	1786,	73.
John Hancock,	8	October,	1793,	56.
John Langdon,	18	September,	1819,	79.
John Sullivan,	28	January,	1795,	54.
James Bowdoin,	6	November,	1790,	64.
Josiah Bartlett,	19	May,	1795,	65.
John T. Gilman,	31	August,	1828,	75.
Samuel Adams,	2	October,	1803,	81.
Increase Sumner,	7	June,	1799,	52.
Caleb Strong,	7	November,	1820,	75.
James Sulliven,	8	December,	1808,	64.
Christopher Gore,	1	March,	1827,	69.
Elbridge Gerry,	23	November,	1814,	70.
John Brooks,	1	March,	1825,	73.
William Eustis,	6	February,	1825,	75.

Com[s] Memorial 1754
opinion of Mansfield 173.

CASE

Relating to the Southern Boundary of the Massachusetts Bay, being the dividing line between that Colony and Connecticutt.

1 Chas 1st 1628 Mar 4 Old Charter to the Colony of the Massachusetts Bay

KING Charles the first by Letters Patent under the Great Seal Reciting Letters Patent of King James the 1st dated 3 Novr. 18th year of his Reign whereby had been granted to the Council of Plymouth for Planting of New England All that part of America lying in breadth from 10 Degrees of Northerly Latitude from the Equenoctial Line to the 48th Degree of Northerly Latitude inclusive and in Length within all the Breadth afsd throughout all the Main Land from sea to sea. To hold to them and their successors for ever and reciting an Indre which had been made by the said Council of Plymouth dated 19th March 3 Charles the 1st whereby they had Granted unto Sir Henry Rosswell and 5 others and their Heirs.

Massachusetts Boundaries

All that part of New England which lies and extends between a great River there called Marrimack River and a certain other River there called Charles's River being in the bottom of a certain Bay there commonly called Massachusetts Bay And also all and singular those Lands and Heredits whatsoever lying within the space of 3 English Miles on the south part of the said River called Charles River or any or every part thereof And Also All Lands lying within the space of 3 English Miles to southward of the said Massachusetts Bay, and also all Lands within the space of 3 Miles to the Northward of the said Merrimack River or to the Northward of any and every part thereof And all Lands whatsoever lying within the Limitts aforesaid North and South in Latitude and Breadth and in Length and Longitude of and within all the breadth aforesaid throughout the Main Lands there from the Atlantick or Western Sea and Ocean on the East part to the South Sea on the West part.

His said late Majesty King Charles the first did Grant and Confirm unto the said Sir Henry Roswell and others their Heirs and Assigns All the said part of New England lying and extending between the Bounds and Limitts in the said Indre expressed and which those Letters patent contain a Grant of by the very same Descriptions and Boundaries as are Expressed in the said Recited Indre as afsd and King Charles also created the said Grantees and such others as should be made free of the sd Company a Body Politick and Corporate by the name of the Govr and Compy of the Massachusetts Bay.

Settlemt by other English Planters in Connecticutt 1636 to 1640

Divers other English Planters made settlements to the South of and adjoining to the said Tract of Land that had been so Granted to the Massachusetts Bay and upon or near to a certain River there called Con-

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necticutt River in New England and formed themselves into a Government and settled several Towns and particularly Three called by the names of Hartford Windsor and Weathersfield and fixed the North Bound of the said Town of Windsor at Kittlebrook which are places near to the South Boundary of the said Massachusetts Grant And the said Planters raised Forces and conquered the Pequotts which were the most powerful Nation of Indians in New England—And a few Years after they purchased the Territory of the Mohegan Indians from Uncass their Sachem.

1642 A pretended False line run by the Massachts Bay alone witht the Interventn of any other Parties as their Southern Boundaries

The Massachusetts Colony pretend that they in this Year caused Two Persons by their own Appointment and Direction that is to say Woodward and Saffroy to run the said South Boundary Line of their Colony And that they began as they further pretend the said Line 3 English Miles South of the Southermost part of the said Charles River according to the direction of their Charter And carried it on to a certain station on Connecticutt River known by the name of Bissell's House and which Line so run they for many Years were pleased to account to be the South Boundary Line of their Governmt.

But Note This pretended Line instead of being really begun as alledged only 3 Miles South of the most Southermost part of Charles River, as the Charter directed; was begun 7 Miles and 56 poles South of the most Southerly part of the said Charles River as afterwards will appear And therefore if such Line was in fact run it was invalid being erroneous as aforesaid And further as made without any proper Authority from the Crown and by the Massachusetts Agents only Exparte.

23 April 1662: 14 Chas 2d Connectt Charter

King Charles the 2d by Letters Patent under the Great Seal Reciting that several Lands had been Obtained and settled by his Majestys Subjects in America And that it had been represented by the Petition of John Winthrop and others, persons principally interested in the Colony of Connecticutt that great part thereof was purchased and other part obtained by conquest at their only Expense—His Majesty Creates and Makes them a Body Corporate by the Name of the Govr and Company of the English Colony of Connecticutt in New England in America and Grants unto them the said Govr and Company and their Successors.

Connect Boundaries

All that part of his Majestys Dominions in New England in America bounden on the East by Narranganset River commonly called Narraganset Bay where the said river falleth into the Sea And on the North by the Line of the Massachusetts Plantation and on the South by the Sea and in Longitude as the Line of the Massachusetts Colony, running from East to West that is to say, from the said Narraganset Bay on the East to the South Sea on the West part,

So that the South Boundary Line of the said Grant to the Massachusetts Bay is the North Boundary of Connecticutt and the dividing Line between those two Colonys.

1671 and 1685 Grant by Connect of Townships near their N Bounds

The said Colony of Connecticut in 1671 by a Grant or Order of a General Court extended the Bounds of their said Town of Windsor which was near their said North Boundary two Miles North of its former Bounds, & 1685 Granted a Patent to the then proprietors of the said Town of Windsor for the Confirmation to them of the said Lands within their said Township and describing the same particularly by meets & Bounds.

1684 Grant of Townships by the Massachusetts near their So Bounds

The Massachusetts Grant to the Town of Suffield & to the Town of Enfield which were near the Boundary Line between the said two Provinces that they should extend 6 Miles in Breadth South from the Mouth of long Meadow Brook.

these Grants interfering with each other

Which Towns of Suffield & Enfield by this Grant of the Massachusetts were made to lap a Mile & 8 Roods upon the said Town of Windsor that had a prior Grant from Connecticutt as before mentioned.

differences arose between ye Inhabts in the Townships

Differences soon after arose and set Violent strife between the Inhabitants of the sd Towns of Windsor & Enfield & Suffield to defend their claims to the Lands that had been severally granted to them as aforesaid.

1702 Observat taken by Taylor and others commissioned by both Colonys. of the Massachusetts sd Pretended Boundary Line wn the falsity of it was most conspicuous

Upon Occasion of those differences James Taylor from the Massachusetts and Commissioners from Connecticut made a Tryal where the Boundary line between the two Provinces would run & to that end they first set up their quadrant & took their Observation at the true point they ought (vizt) at or not far from the distance of 3 Miles South of the Southermost part of Charles River after which they took a second Observation at Bissell's House mentd as afsd to be situate on the said pretended Boundary Line said to have been run by Woodard and Safry in 1642 as afsd And they then found that not only the Towns of Windsor and another Town established by Connecticutt called Symsbury but even the said Towns of Enfield & Suffield Established by the Massachusetts were South and on the Connecticut side of the true Boundary line between the two Colonys; But we have not Taylors Report under his hand of these his proceedings they are however taken Notice of in some subsequent Acts And it is said that when the Massachusetts saw where the true line would fall as made by these Observations of Taylor they suppressed his Report for under colour of the said line said to have

been run by Woodward and Safry the Massachusetts had presumed to Grant great quantitys of Land without ye Limitts of their Charter & within ye Bounds of Connecticut.

1708 Act of Assembly Connect Appointg Comm.rs to settle ye Bounda Line with Comm.rs to be Appointd by ye Massachusetts

The Violence of the Borderers on the sd Boundary line between the said 2 Colonys continuing, an Act of Assembly was passed by the Colony of Connecticut reciting divers Outrages committed by the Inhabitants of the said Towns of Enfield & Suffield on the said other Towns & that Connecticut being desirous to prevent the same by a fair settling the Boundary Line between the two provinces after their many theretofore fruitless Endeavours for the like purpose—Enact that there should be Commiss.rs Appointed by the Gov.r & Council of Connecticutt for running the said Boundary Line, to Act with such Commiss.rs as should be Appointed by the sd Massachusetts.

N. B As the Massachusetts were sensible they could have no just or true Bounds but those set them in their Charter and that the sd pretended Line run by Woodward and Safry, was false but had served them as a colour to cover their Encroachmts; Connecticutt notwithstanding several Complaints made by them, had not been able nor could now of a Considerable time prevail with the Massachusetts to run the Line in Conjunction with them; And when at last the Massachusetts did consent thereto the Connecticut Comm.rs were forced to make them the most unreasonable concess.ns in Order to preserve the lives and peace of his Majestys Subjects on the Borders, And then as they (expressed it) they condescended to run the Line as herein after mentioned.

1713 May 14th Appointmt of Comm.rs by both Colonys to settle the Boundary Line

At a General Assembly of Connecticut, an Agreemt being laid before them of the Govr & Council of the Massachusetts & of Connecticut for Appointing Commrs of both Governm.ts to survey the Land lying near the Line of Division & draw a Map thereof to be laid before both Assemblys respectively. The Assembly of Connecticutt impowers the Govr and Council to Appoint Comm.rs on their part to meet and treat with Comm.rs to be Appointed by the Massachusetts to fix the sd line of Division, & Establish the Property, of the Lands adjoining thereto, according to the Instructions to be given the said Comm.rs And what Agreement they should come to, should be held good.

N. B No Power was or is pretended or could be given to the Commrs to alter Jurisdiction or settle any other Line than that in the Charters.

13 July 1713 The return or Agreemt of ye sd Commrs for settling the sd Line

The Commrs met at Boston and drew up & signed & sealed a Return or Agreement in form of a Deed—Reciting that the South Line of the Massachusetts in 1642 by the Appointmt of their Gov.r & Council was surveyed by the afsd Woodward & Safry commencing the said 3

English Miles on the south of Charles River and of every part thereof Agreeable to their Charter & carried on to a station on Connecticut River called Bissell's House which for many years was Accounted the dividing Line between the sd Governmts supposing that Line to be right but that the Colony of Connecticut having Obtained a Charter & Grant from the Crown, of Land bounded as afsd on the North with the South Line of the Massachts Had some years after their said Charter, drawn the sd line into Question, By reason whereof the Grants of Lands Bordering thereon made by the respective Governm.ts were controverted, & suits had arisen about the same, for a friendly determining whereof Two Comm.rs Appointed on the part of the Massachusetts and two on the part of Connecticut upon full discussing & Consideration of the Claims on both sides—And the proposals and concessions theretofore made by Virtue of the Powers to them deligated by the respective Assemblys of the said Provinces; Did mutually condescend conclude & fully Agree as follows—First That the dividing Line should take its commencem.t from the Ancient Station of Woodward and Safry And that a West Line should be run from thence According to the direction in the Massachusetts Charter which Line as far as there are any Settlements should be run & determined suitable persons Appointed by each Government within 12 Months afterwards be further continued to the full Extent as the Governm.t should direct—2dly That the Town of Woodstock Granted in 1683 and planted and defended by the Massachusetts at Great expence in a Time of War—And the Town of Symsbury granted in 1670 & Established by Connecticutt—Do remain entire to the respective Governments by which they were Granted—Both as to Property and Jurisdiction—Notwithstanding any Inter fectn by a new rnnning the line—3dly That a West Northerly Line be drawn from a large White Oak standing on the West side of the Bank of Connecticutt River &c as therein further described & that the Town of Suffield should continue in the Jurisdiction of the Massachts & the Town of Windsor should continue in the Jurisdiction of Connecticutt—4thly The like Agreemt with respect to several Townships—And that several Tracts of Land lying near the Line Granted to several particular persons therein named should remain to the Grantees, tho' upon running the new Line it should Appear any of the sd Lands did not lie within the Governm.t that had Granted the same And the Claims of other particular persons remaining unsettled were reserved for further consideration as therein ment.d and where any Town or particular persons by reason of any concessions therein made or new fixing the Line should be cut short in quantity of their Grants or any Townships thereby consented to continue under the Governm.t they were Established by shod appear to be on the side of the other Government, and Equivalent should be made them of the like quantity of Land.

The Plan of the Line

There is a Plan also of the line as run by these Comm.rs which begins at Woodward and Safry's said Station on the East & runs from

thence in a straight Line due West and falls considerably above or to the North of the sd Bissell's House (a Noted land Mark situate on the sd former Line) and which so far differed from and falsified the sd former running by Woodward & Safry—And upon this plan is a Mend'um dated Decr 1713 certifying it to be the Plan of the Line between the said Provinces as agreed allowed Ratified & confirmed by the undersigned Govrs & Comm.rs for both Governm.ts And that the Towns and Lands thro' which the Line passed and were adjacent thereto were confirmed to the several persons concerned to hold to them & their Heirs & the Equivalent accordly pursuant to the afs.d Articles of 13th July 1713.

28th & 29 Decr 1713 Minutes of Proceedgs at a Meeting of the Govrs & Comm.rs of both Provinces in consequence of ye afsd Agreemt

At a Meeting at Boston of the Gov.rs of the Massachusetts & Connecticutt with the Comm.rs appointed by their Genl Assemblys to settle the partition Line between the said 2 Governm.ts Is laid before them & entered—A List or Accot Entitled Grants made by the Massachusetts for which Equivalents were to be granted—being so much as falls to the Southward of the Colony Line lately run consisting of 14 of Land belonging to the Towns and persons therein set down And amounting to 79,785 Acres and is followed by an Entry that the Colony of Connecticut must have an Equivalent Granted for the same Agreeable to the aforesaid Return of the Comm.rs of the 13th July 1713 reported and accepted in the Genl Assemblys of both Provinces—And the said 79,785 acres to be Allowed to Connecticutt for the Equivalent, are to be taken up in the waste of Massachusetts Province which is the Equivalent on the East side of Connecticut River—What is found on the West side of that River in the Massachusetts possession, is to be Allowed for in the next Session of the Commrs after the further running of the Line And Reciting that by the late running of the Line it Appeared to interest and take part of Townships of Springfield and Westfield, both of which fell to the Southward of the line—It is entered as mutually consented and agreed that the sd land should remain to those Townships within the Governm.t of the Massachusets the Intersection of the line notwithstanding—It is further entred that the Govr and Comm.rs of Connecticutt had Offered to take the sd Equivalent of 79,785 Acres partly upon Connecticutt River at or towards the Coast clear of any Grant (vizt) 40,000 in one place & 30,000 in another & 9,785 Acres in other parts of the Province —which being debated & considered is Allowed by the Govr and Comm.rs of the Massachusetts and accordingly declared so to be Agreed.

8th July 1714

Moved by the Govr and Comm.rs for Connecticut that in stating the said Equivalent to be Allowed Connecticut, consideration should be had of the great distance those Equivalents would lie at from the Colony and therefore that they should be encreased in quantity—In

answer to which it was proposed that consideratn should be had with regard to the Distance or Nearness of the Sea & to the Goodness and Value of the Lands as well as the No of Acres And it was Agreed to recommend it to the Meetings of the General Assemblys of the Provinces to Approve the Proposals accordingly.

12th July 1714

Reciting that a Tract of Land Originally belonging to Thomas Clark by Grant of the Massachusetts mentd in the said Return & for which an Equivalent was to be made to Connecticutt the sd Tract falling South of the line—It is Agreed an Equivalent should be Allowed to Connecticutt & that Land remain to Clarke—And that it Appearing by the Report of the Riding Comm.rs upon their continuing the Line on the West side of Connecticut River that there was 28,008 Acres of Land further to be Allowed as an Equivalent to Connecticutt to be Allotted out of the Waste Lands of the Massachusetts—The sd Quantity is accordingly Granted and Allowed.

N. B Connecticutt had never any Equivalent in Respect of those two last

Note also There is wrote upon the afsd Plan a Mem'dum dated 5-12th of July 1714—As follows The Continuatn of the Line between the sd 2 Governm.ts as underneath delineated and run by the Riding Comm.rs on the part of both Provinces—Is hereby ratified & Confirmed signed & sealed by the Govrs and Commrs of both Provinces.

Observations on ye said settlement of the Line made by the Agreemt of the 2 Colony's

At first View it Appears surprizing that they should by previous Agreem.t stipulate that the line of Division to be run should commence from the Ancient Station of Woodward & Safry, or indeed that any mention should be made of the Line sd to have been run by Woodward & Safry 1 Because that running being the Act of only one party interested and without the Authority or participation of the Crown could not have any Force to alter or fix the line directed by the Charters—2dly. The Massachusetts themselves never so far relyed on that Line of Woodward & Safry to be their Boundary Line as to bound any of their Grants upon it, nor did they disturb the Inhabitants of the said Town of Windsor in the possion of their Lands to the North of that Line from the year 1636 to the time of this Accord which was a space of 77 years —3dly There could have been no good and Just Reason for mentioning Woodward & Safrys Station in the said Agreem.t because if it had really stood as is declared in the said Agreemt 3 Miles south of the southermost part of Charles River according to the Charter it was unnecessary —4.thly It was falsely represented to be only three Miles south of Charles River, when it was in fact above 7 Miles South of the most southerly part of that River, but the Massachusetts having before made the pretention of this Line a colour for granting more than 100,000 Acress of Land in Connecticutt & also for their usurping a Jurisdictn within the Connecticut Bounds as before mentioned and which had

been discovered by the Tryal made by Taylor in 1702—The Massachusetts Comm.rs under colour of that Station now contrived to have the Line on this running settled at 7 Miles & 56 Rods South of the southermost part of Charles River the said Woodward & Safry's said station where they led the Connecticut riding Commissioners to begin the line being so far to the South of the southermost part of that River and from whence they prevailed with them to run the Line in a streight direction due West and in order to induce them thereto first declaring and describing the said Station they began from (tho' untruly) to be 3 Miles South of the Southermost part of Charles River—But which can never avail them, for the place for the beginning the Line must be really & truly only 3 Miles South of Charles River as set in the Charter and indeed as is acknowledged by that very Agreement—5thly That Station of Woodward & Safry falsely set down as only 3 Miles South which was above 7 ought not to be regarded no more than the said other famous and well known Monument Bissells House on the same Line of Woodward & Safrys and which on this running was forced to be given up being found to be still so much further to the South as not even to be supported by this false commencement of the Line.

Here we may Note also the large Concessions the Connecticut Commissioners were obliged to make in Order to keep his Majestys Subjects on the Borders from destroying one another—And First That the said line should begin at a fixed Station instead of 3 Miles south generally of the River and that a Station on a Line that had been run by the said Massachusetts Colony exparte—2.dly for Connecticutt to cede the Jurisdiction of Woodstock Enfield & Suffield &c: to the Massachusetts if found south of the Line shews how they were borne upon—3.dly To allow that the Grants made by the Massachusetts in Connecticutt should be settled on the Grantees and Accept an Equivalent far up the Country of the like quantity of Land where it was of Small Value that even when Connecticutt had laid out 79,785 Acres in pursuance of the said Agreement it was all sold for £682 New England Currency & half of it was taken up within the Limits of another Colony (vizt) Newhamshire as it afterwards Turned out on the settlemt of the Boundary betwn the Colony and the Massachusetts. Lastly the Line as run is 4 Miles & 56 Poles South of the place set in the Charters, And therefore if it was to be Allowed to be of any force would be Transferring the Jurisdiction from Connecticut to the Massachusetts over a Tract of Land of the Breadth of 4 Miles and 56 Poles for above the Length of 50 Miles together—But can such Transferring the Jurisdiction over Towns & Lands from one Governmt to another by those Comm.rs be of any avail And for the doing whereof they had no power from their Constituants or even if the two Governm.ts had never so formerly given them that power, would it not have been Void for Want of the Kings Authority—The Jurisdiction these Governmts have is restricted by their Charter to the Lands contained within their respective Limitts and cannot by them be extended farther nor Transferred Over from one to the other But must remain as the Crown was pleased to fix them by their Charters,

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untill altered by the Authority of that Power under which they hold their Charters, that is the Crown the fountain of all power And this is so strong and Irrefragable we submitt as not to admitt of an Answer.

Argumt of ye Massachts in support of the Line

But still it is probable the Massachusetts may Insist if the said Line was not run under a proper Authority so as to be conclusive Yet that it is rightfully & truly run and will be so deemed when run under a proper Authority.

Q: A Plan of ye whole of Chas River wth ye Line that has been run will be very necessy to be made & included in one Dct upon a small scale of one sheet of paper.

For that a point situate on Wrentham Plain North of the said station from whence the sd Comm.rs began the sd line, being at the head of Jacks brooks that emptyes itself into Charles River is part of Charles River.

To which Connecticut Answers Brooks that Run into Rivers are as really different from the Rivers as the Drops of Rain that fall into those Brooks And that this Pond and the Brook that runs from it into Charles River have always been called by other Names And it is most clear that Pond or Jacks Brook that runs from it is not part of Charles River as may be seen by the plan thereof.

Answers thereto A like pretence of the Massach.ts with the present with regard to another Boundary on Newhampshire settled under his Majestys Commission.

Further the Massachusetts have their North Bounds described by 3 Miles North of the Northermost part of Merrimack River in the same manner that they have their south bounds described to be 3 Miles south of the southermost part of Charles River and there they got into the same Humour and Practices to extend their North bounds and made great Encroachments on that side the Province of Newhampshire—But on the petition of the House of Represives of Newhampshire to his Majesty in Council a Comm.n was Issued under the great Seal for setling the Boundary between those 2 Provinces & the Line run under such Comm.n at their Joint Expence and the Massachusett in the End were over Ruled in their Encroachments And that North Boundary set right According to their Charter.

And Note, the line in that Case was determined to be a similar curv'd Line pursuing the course of Merrimack River at 3 Miles distance till that River took a Different direction when it ceased to be a Northern Boundary and then to be carried on by a straight Line.

1747 May 20th Memorial of the Inhabts of Woodstock &c to the Connecticut Assembly claiming their Right to be Members of that Colony.

The Inhabitants of the Towns of Woodstock Suffield Enfield & Somers preferred a Memorial to the General Assembly of Connecticut setting forth that those Towns were Originally within the Bounds of Connecticut as circumscribed in their said Charter & taking Notice of the aforesaid Disputes and proceedings of the 2 Colonys of the Massachusetts & Connecticut in respect of the sd Bounds & that by a

Compromise and Articles in 1713 between the 2 Governm.ts the Massachusetts had been allowed to have their right of Jurisdiction over those Towns—And then setting forth that the Memorialists were greatly aggrieved thereby—For that they conceived Connecticut could not Transfer or alter the Jurisdiction of the Lands Granted by the Royal Charter & the doing thereof was an Infringm.t on the Rights of the subject—That the Memorialists were noways consenting thereto & they claimed the Rights and Priviledges of Members of Connecticutt, and beg the Protection of their Assembly—For that the Massachusetts under the colour afs.d compelled them to send Represtives to their Gen.l Assembly & to do other Dutys under pain of pecuniary Fines and therefore pray the Assembly to Appoint a Committee to Consider & Report their Opinion on the afsd Grievance or to treat with the Massachusetts or to concert other Proper Measures for their Relief.

The Assembly of Connecticut Appoint Commissioners.

The Assembly of Connecticut take the sd Memorial into Considerat.n & thereupon Appoint Commrs to meet and confer with such as may be Appointed by the Province of the Massachusetts to hear consider and Report to the Assembly their Opinion on what shall be Offered by Comm.rs of the Massachusetts and the Inhabitants of the said Towns.

Oct 8 1747 2d Memorial of ye sd Towns.

The said 4 Towns prefer another Memorial to the Assembly of Connecticut taking Notice of their said former Memorial and the Resolve of the Assembly thereon—And further setting forth—That the Memorialists had by another Memorial in August then last represented the Matter to the Assembly of the Massachusetts praying them also to Appoint Commissioners on the Affair or Grant other Relief but could not be heard thereon Wherefore they pray the Connecticut Assembly to take the case into their fur- Consideration adding that they cannot apprehend themselves to be disfranchised of the priviledges of the Colony without the Royal confirmatn pray the Assembly to declare in favour of their Rights and receive them under their Protection and Incorporate them into Towns—And offer if need be that the sd Towns should be at the Expence of disputing the Matter with the Massachusetts.

The Assembly further Resolve

The Assembly of Connecticut take the said Petition into Consideration and being desirous to prevent all Controversies between the Provinces respecting the said Towns and that Right may be done the Inhabitants again Appoint Commissioners to Join with Comm.rs to be Appointed by the Massachusetts to hear the Inhabitants and Report to the two Governments their opinion what is Right in the Affair and the Govr is desired to Transmitt to the Govr of the Massachusetts a Copy of this Resolve requesting him to lay it before their Assembly.

12 May 1748 3d Memorial of sd Towns

The said 4 Towns prefer a 3d Memorial to the Assembly of Connecticut setting forth their said former Memorials and Resolves of the Con-

necticut Assembly—And further that the Gov.r of the Massachusetts had laid before the Assembly of that Province a copy of the last Resolve of the Connecticut Assembly when the Massachusetts Assembly in Novr then last resolved that they would not Appoint Commissioners to Join with the Comm.rs of Connecticut to hear the Inhabitants of the sd Towns on the Matters of their Complaint And therefore praying further Relief in the Premes.

N. B The Consideration of this last Memorial was continued to the next Sessions of the Assembly waiting in hopes to hear something from the Massachusetts that might lead to a peaceable Settlement.

May 1749 Resolve of the Assembly of Connecticut.

The Assembly of Connecticut having no Encouragm.t from the Massachusetts that they would come into any peaceable Settlement take the said Petition of the 4 Towns into Consideration & taking Notice that the Petitioners Agents further urged in support of the Petitions—That the said agreemt in 1713 was made thro' Mistake and that Connecticut reced no Equivalent for the Jurisdiction over those Towns and as it was partly executory it was never fully compleated nor Ever Established by Royal Confirmation And therefore tho' it was Approved by the Assemblys of both Governm.ts Yet as to Jurisdiction particularly it must be looked on as Null and Void.

The Assembly of Connecticut therefore are of Opinion as it does not Appear that ever the sd Agreemt hath, so it never ought to recede the Royal Confirmation and that as the Government could not give up Exchange or alter their Jurisdiction so the said Agreem.t as far as it respected Jurisdiction is Void—And declare that all the Inhabitants that are South of the line fixed by the Massachusetts Charter are within and have a Right to the Priviledges of Connecticutt. the said Agreem.t of 1713 Notwithstanding: And for as much as there may be some uncertainty with respect to the beging and Running the said Line it is Necessary that Measures be taken to Ascertain the same according to the Charter. Therefore the Assembly of Connecticut Appoint Commissrs to Join with Commrs to be Appoint.d by the Massachusetts to ascertain and fix the sd Line according to the Charters and the same being Approved by both Governm.ts that joint Application be made for the Royal Confirmation of it and the Governor is desired to Acquaint the Governmt of the Massachusetts herewith and request their joining therein—And farther Resolve if the Massach.ts refuse to join as afs.d or the Comm.rs do not Agree in the Matter afs.d—To prepare and state the Case and send it to the Agent for Connecticut in Great Britain and direct him to Petit.n his Majesty to Appoint Comm.rs to run & ascertain the Division Line between the sd Colonys according to the Charters.

N B: Since this the Inhabitants of the 4 Towns have been suffered by the Massachusets to be peaceably under the Governmt of Connecticutt.

Oct: 1750 Assembly of Connecticutt again offer Comm.rs to Settle the Line

The Assembly of Connecticutt taking Notice of their last Resolve & being desirous that all suitable Matters may be taking for Accommoda-

Compromise and Articles in 1713 between the 2 Governm.ts the Massachusetts had been allowed to have their right of Jurisdiction over those Towns—And then setting forth that the Memorialists were greatly aggrieved thereby—For that they conceived Connecticut could not Transfer or alter the Jurisdiction of the Lands Granted by the Royal Charter & the doing thereof was an Infringm.t on the Rights of the subject—That the Memorialists were noways consenting thereto & they claimed the Rights and Priviledges of Members of Connecticutt, and beg the Protection of their Assembly—For that the Massachusetts under the colour afs.d compelled them to send Represtives to their Gen.l Assembly & to do other Dutys under pain of pecuniary Fines and therefore pray the Assembly to Appoint a Committee to Consider & Report their Opinion on the afsd Grievance or to treat with the Massachusetts or to concert other Proper Measures for their Relief.

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Oct: 1750 Assembly of Connecticutt again offer Comm.rs to Settle the Line

The Assembly of Connecticutt taking Notice of their last Resolve & being desirous that all suitable Matters may be taking for Accommoda-

ting the Matters in difference between the two Governm.ts respecting the Division Line—They make the Massachusetts another Offer to settle the Line by Commissioners but to no purpose

His Majesty in two other similar Cases between the Massachusetts and the Province of Newhamshire and the Colony of Rhode Island having given Relief and settled the Boundary between those two Provinces.

It is therefore proposed that a Petition should be presented by the House of Represtives of Connectict to his Majesty in Council praying a Commn to be Issued under the great seal to certain Comm.rs therein to be named for settling the Boundaries between the Massachusetts & that Colony.

Qd.

Whether in this Case and on Con'son of the Various Circumstances attending it is there sufficient Ground to expect that on a Petition of the Assembly of Connecticut a Commissn will be granted by the Crown Appointing Commiss.rs out of the Neighboring Governments to run the dividing Line between Connecticut and the Massachusetts & determine that Boundary or will the Concessions injudiciously made by the afsd Agreem.t between the sd 2 Colonys in 1713 without any Confirmation from the Crown be a Bar to the Issuing such Comm.n at this time and in case a Commn should be granted how ought the sd Line to be run with respect to the said Charles River, whether at 3 Miles distance from the most Southerly part thereof by a straight Line due East and West or in a Similar Curved Line pursuing the course of that River as far as the same continues in an East & West direction & from thence to be continued by a straight Line East & West or how otherwise.

1754.

I am of Opinion that in settling the above mentd Boundary the Crown will not Disturb the settlement by the 2 Provinces so long ago as 1713 and Commrs Appointed in 1708—I apprehend his Majesty will confirm their Agreemt which of itself is not Binding upon the Crown but neither Province should be suffered to litigate such an Amicable Compromise *of Doubtfull Boundarys* If the *Matter was Open* the same Construction already made in the Case of Merrimack River must be put upon the same Words in the same Charter Applyed to Charles River. As to Jacks Brook it is Impossible to say whether 'tis part of Charles River without a View, at least without an Exact plan and knowing how it has been reputed. *But any such Distinction I apprehend would have great Weight in support of a solemn Agreem.t so long acquiesed under If the Matter was gone into at large* in my Apprehension the Question should not now be suffered to be agitated between the Provinces, the Agreemt ought to stand unless there are Objections to it on the part of the Crown in respect of the Inhabitants or the Kings Sovereignty or upon any Account whatsoever: But if the King Approves the Agreem.t I think it is now too late for the parties to dispute it.

W: MURRAY

5th Nov.r 1754.

SUPREME COURT OF THE UNITED STATES.

CHRONOLOGICAL ARRANGEMENT OF PROOFS AND DOCUMENTS.

FIRST CLASS.

State of localities, 1628.

1 Baylies, 257.—For twelve years after the commencement of the settlement of Plymouth, the *town constituted the whole colony.*

1 Baylies, 261.—On the 22d of May, 1627, it is believed that every family and person in the town (*and the town was at that time the colony*) can be ascertained from a record of the division of the cattle.

1 Baylies, 277.—The settlers of Plymouth, apprehensive of the natives, felt but little inclination to extend their settlements inland, but they found themselves, as their numbers increased, within limits too narrow for comfort; they therefore sought to *continue the settlements along the ocean.*

Smith, in Massachusetts Historical Collections:

"I took the fairest reach in the bay for a river, whereupon I called it Charles river."—1614.

1 Hutch., 460.—It was before that Massachusetts river.

Answer, pp. 6 and 7.

SECOND CLASS.

Contemporaneous construction.

1638.—"Another plot the old serpent had against us, by sowing jealousies and differences between us and our friends at Connecticut, and also Plymouth. This latter was about our bounds. They had planted Scituate, and had given out all the lands to Conyhassett. We desired only so much of the marshes there as might accommodate Hingham, which being denied, we caused Charles river to be surveyed, and found it would come so far southward as would fetch in *Scituate*, and 'more;' but this has referred to a meeting between us."—1 Winthrop, 284.

NOTE.—"Relative to this survey of Charles river, and the line between Plymouth and Massachusetts colonies, which frequently was matter of controversy, the earliest notice in our colony records, 1, 228, is 6th September, 1638: 'The town of Dedham is desired to spare two that are most fit to go with Goodman Woodward and Goodman Johnson, (if he can spare time,) or another, to be got in his room, to lay out the most southernmost part of Charles river, and to have five shillings a day a piece. Woodward was often employed in such business, and at the same court was ordered to survey the line north of Merrimack. He was admitted of Boston church, 8th December, 1633, being No. 194."

Deposition of Richard Callicott, taken in 1672.

The testimony of Richard Callicott, aged about sixty and seven, who testifieth and saith, that he being by the order of the general court to go with Goodman Woodards and Solomon Saffery, above thirty years since, to lay out the southern line of the Massachusetts, we went to the southernmost part of Charles river to a pond, out of which the principal part of the river came, and so measured with a chain three miles due south, where we marked several trees, and there we staid till we had a clear horizon for observation. We observed some other places where we went, but marked no trees; but when we came to Connecticut river, the artists took again observations, having a clear horizon. And our line came directly to the place where Windsor Ferry was then kept, where we had a barn on that side we were upon, and the house of one Goodman Bissell on the other side. Having thus done, according to my orders from the general court, I repaired unto Hartford, and gave the Governor notice of what I had been about, who desired me to attend himself and the magistrates the next day, which meeting of the magistrates I attended, and showed them our grant by patent, a copy whereof I carryed with me for that part of it.

Much discourse we had about it, pro and con—whereupon I told them my order from the general court was, that in case they pleased to send any artist or artists with us, we would return with them to the place where we took our first observation; but after much discourse, they were pleased to declare, that they accepted of what we had done; and further saith not.

Taken upon oath, the last of the 3d month, 1672, before
SIMON BRADSTREET, and
THOMAS DANFORTH, *Assistants.*

In the presence of—
Captain JOHN ALLYN and
Captain WAYTE WINTHROP.

Vide Rhode Island evidence, p. 47.

Memo. of line with Con't and R. I.—Octo., 1670.

Whereas this court have been informed that several disorderly persons are settled and planted upon the west side of Nipmuck river, about ten or twelve miles above Mr. Blackstones, which is apprehended to be within the bounds of this colony, it is therefore ordered, by this court, that the south line of this jurisdiction be continued from Nipmuck river, where it was left between Plymouth and this jurisdiction, and to run it about twenty miles west beyond the said river; and cause the same to be marked sufficiently, either by markt trees, or heaps of stones where trees fall not in the line; and the persons appointed to do this are Major Genl. Leverett and Left. Joshua Fisher, with two or three other persons whom the major general shall think expedient to carry the chain and mark the line. And this to be done and returned at the next court of elections, with signification, whether the people seated in those parts be within our limits or not. And if said com'tee find the said inhabitants to fall within our bounds, then the major general is ordered to take bond of two or three of the principal of them, to appear at the next court of election, to answer for settling upon land within this jurisdiction without the grant of this court.

180.

1671. In pursuance of the hon. general court's order of the 11th of Octo., 1670, for the running of the south line further west from Nipmuck river, I went from Boston, the 2d of May, 1671, at evening, to Dedham, to call Lieut. Joshua Fisher and the company for the work; himself not being well, he had provided an artist for the work—Francis Taylor. Upon the third day we went from Dedham, and before night fell with the river, and from the river side with a great white oak upon the ground, which was blanched and had the surveyor's mark upon it, O, marked with a marking iron; from that, steered west by a meridian compass, allowing nine degrees variation, we came to a marked tree blanched, had the letters IL and IF therein cut with a marking iron, over which I had it blanched, and set IL 1671 with a marking iron; went to the river, and so down the same to pass the river about a mile and a half, we came to a place where the river parted, so that there was a small island, at the lower end of which we passed over to the point of the island, and so passed that into the main river, where, though the stream was quick, yet not very deep, we passed over, and so went up the river until we came into the line against the marked tree on the east side, and upon a hill set a stake, our first station, and set against the stake divers flat stones, one hundred and ten rods from the river.

The next morning passed on the line, one hundred and forty rods from the stake, blanched, east and west, a black oak and marked it O, the running line; blanched the north side M, for Massachusetts, and IL 1671; past on sixty rods, marked a great white oak, east and west, O, north side M, IL 1671; so past on and marked several trees in the line, east and west, till we came to a high hill, which is a rocky hill, and called Prospect hill, marked a small pine, east and west, O, which is three miles thirty-two rods from the river; six rods further, raised a heap of stones in the line, and blancht a small shrub pine by them; past on, blancht the trees at the miles, and marked a large pine, and on the north side, under the M., IIII strokes, four miles; past on and marked several trees, and came to a great pine, marked with IIIII strokes; forty rods forward, we came to a cros marked line, which ran southwest and northeast. In this first five miles, we headed a miry meadow, and two small miry sqamps; past on about sixty rods, and came to a brook, going down to it a steep hill, and as soon as we were over upon a sand bottom, there was a great white oak; we marked it, past on and crost that brook in two branches, and white oak, and presently came to a river, deep and miry; by the river side marked a great tree; past on forty rods, and met with the same river, not passable, so we set off, north sixty rods, and run the line west three hundred rods, and there passed the same river. Had we kept on without setting off, we must have past it, in the three hundred rods, twice more. We having past the river, a good bottom, swift and very deep, we took off our set off, and in the right line marked a white oak; ran the line west one hundred and sixty rods, fell in with the same river, past it, and upon the hill, which is steep going up, there is a great white oak, which we marked; it had old marks upon it; then past thickets, blancht; and marked several trees, marked a black oak, marked as with a running line, so on the north side, MVII; past on, came thro' the thickets, and over a small plain hill, came to a great black oak, eight miles and forty rods, marked as the running line, so on the north side, MVIII; a little to the northward of this tree, there is a pond fair open to view; past on to a white oak, by a miry swamp, and blancht

several trees in the way, so on to a crochet maple, marked it with the line mark, and on the north side, being ten miles, M and X.

The houses erected by Inman and his sons are a mile and a half or two miles without our south line. Upon May 17th, one who said his name was Thomas Allin, and lives at Providence, came to me at Boston, and told me that he and Inman had purchased land of the Indians, part of which tract lay in our bounds, as the line was run. He said he purchased it of Philip, the Sagamore—desired to know if they might enjoy it, submitting to the government, which he desired. I told him he must have his answer from the gen'l court, but he must know it was against law for any one to purchase land, in our colony, of the Indians, till they obtained leave of the gen'l court. He asked if it would be a trespass to fell trees? I told him it would. I asked him if he knew of a line which ran southwest and northeast, that was marked about five miles from the river? He said it was the line of the Indian purchase, as he supposed.

This return made 3d of June, 1671.

JOHN LEVERETT.

Accepted by the court, and ordered to be recorded.

1638. "Accordingly an house was built, and commonly called the Bound House, though it was intended as a mark of possession rather than of limits."—1 Belk., 38.

1640. "That Government was glad of an opportunity to realize the construction which they had put upon the clause of their charter, wherein the northern limits are defined. For a line drawn from east to west at the distance of 'three miles' to the northward of Merrimack river, 'and of any and every part thereof,' will take in the whole province of New Hampshire and the greater part of the province of Maine; so that both Mason's and Gorge's patents must have been vacated. They had already intimated their intention to run this east and west line; and, presuming on the justice of their claim, they readily entered into a negotiation with the principal settlers of Pascataqua respecting their incorporation with them."—1 Belk., 54.

A. D. 1651. *Massachusetts extends her claims eastward.*

As the charter of Massachusetts alone embraced all the lands "within the space of three English miles to the northward of the river Merrimack, and to the northward of any and every part thereof," her Government contended that, by obvious construction, all the territory south of a line stretching eastward across the country from a point three miles north of that river's source, to the same minute of latitude on the sea shore, belonged to her jurisdiction.—1 Williamson's History of Maine, 336.

"North limit of Massachusetts patent surveyed."

"Massachusetts now determined to pursue her claim to its farthest extent, and with renovated vigor. At the May session, the Legislature resolved that the charter line did extend eastward from a place three miles above the northernmost head of Merrimack river; to discover and establish which they appointed Simon Willard and Edward Johnson commissioners of survey. These were directed to procure suitable articles and assistants, and with all convenient despatch take 'a true observation of the latitude at the place,' with their utmost skill and ability, and make return

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of their discoveries and services at the next session of the General Court. The skilful artists selected were John Sherman, of Watertown, and Jonathan Ince, of Cambridge college. These and the commissioners made the proper examination, and afterwards returned, upon their oaths, 'that at Aquahatan, the head of the Merrimack, where it issues out of the lake called Winnepuseakik, on the 1st day of August, 1652, we found the latitude of the place 43° 40' 12", besides those minutes allowed for the three miles further north, which extends into the lake.'"—1 Williamson, 336.

Northern limits of the Massachusetts patent extended to Casco bay.

"At the October session the General Court received and accepted the report of their agents appointed to determine the northernmost boundary or limits of their patent. By this the line was to commence at a place three miles north of the head of that parallel, passing above the northern sources of Piscataqua, or Salmon Falls river, crossing the Saco towards the mouth of Little Ossipee, 20 miles from the sea, touching the southernmost bend of the river Presumpscot, and terminating at 'Clapboard island, about three miles eastward of Casco peninsula.'"—1 Williamson, 342.

"A case of jurisdiction also occurs, which ought to be stated, as it exhibits, to some extent, the Massachusetts claim. Ann Mason, executrix of John Mason's will, sued Richard Leader, A. D. 1652, into Norfolk county, New Hampshire, in 'trespass and ejectment,' for withholding possession of houses and lands which he then occupied at Newichawannock, belonging to her late husband. In an issue upon a plea and replication in abatement to the jurisdiction, the action was carried by appeal before the general court, in 1653, where at last judgment was rendered against the defendant, and May, costs (£6 10*s.* 4*d.*) were taxed for his opponent. By this decision, the sincerity and determination of Massachusetts in her pretensions were put to the *test*—a free course of justice opened throughout her jurisdiction."—1 Williamson, 353.

"Various detached settlements were made within this territory; and so ill defined were the boundaries, that a controversy soon arose between Massachusetts and Mason, in respect to the right of sovereignty over it. In the exposition of its own charter, Massachusetts contended that its limits included the whole territory of New Hampshire; and, being at that time comparatively strong and active, she succeeded in establishing her jurisdiction over it, and maintained it with unabated vigilance for forty years."—1 Story on Constitution, 65.

"The Massachusetts who, as hath been observed, claimed the province of Maine as within the bounds of their charter, took the opportunity of the confusion there, and encouraged the disposition which prevailed in many of the inhabitants to submit to their jurisdiction, and, in 1651, they appointed Mr. Bradstreet, Major Denisson, and Captain Hauthorn, to treat with the gentlemen of that province about the surrender thereof, as in *their best* judgment and discretion should seem meet."—1 Hutchinson, 177.

1638. "During these transactions, the Massachusetts people were inquiring into the bounds of their patent. In 1639, they sent persons to find out the northernmost part of Merrimack river."—1 Hutchinson, 108.

2 Douglass, 91, sec. 10. "In the beginning of our settlements, the country not being well investigated, sundry succeeding royal grants interfered with former grants. King Charles II having received complaints concern-

ing the wrong description of places and grants, not to be determined at a distance, but by commissioners to be sent expressly upon the spot, accordingly, 1664, four commissioners, Colonel Nichols, (afterwards Governor of New York,) Sir Robert Ker, &c., were sent over to settle all the controverted boundaries of the provinces, and to be determined by the concurrence of any three of these commissioners, or of two of them, whereof Nichols to be one. Three of those commissioners gave the Attleborough Gore to Plymouth colony; that is, Patucket, alias Blackstone river, to be the dividing line between these two colonies; the King's pleasure concerning this determination was never signified; as it was not confirmed, it continued many years in dispute, and at length was determined by commissioners, 1741, and confirmed by the King in council, 1746, in favor of Rhode Island; it is now called Cumberland township, in honor to his royal highness the Duke of Cumberland, and is annexed to the county of Providence. Rhode Island, easterly line dividing it from the present province of Massachusetts bay, was settled by commissioners, 1741. Massachusetts government appealed home against every part of the judgment, as grievous and injurious; but the judgment in the whole was confirmed, 1746, by the King in Council. In autumn, 1746, the government of Rhode Island sent to the government of Massachusetts bay a copy of His Majesty's order in Council, affirming the judgment of the court of commissioners for settling the boundary line between the two Governments, and by act of assembly appointed commissioners to run (December 2, 1746) this late adjudged line with the commissioners from Massachusetts bay; the Assembly of Massachusetts bay could not be informed of this appointed time until their next sitting, December 24. Thus Rhode Island contrived to run this line *ex parte*. For a minute description of this line, see vol. 1, p. 399."

It was difficult to find any reasons for this settlement from an examination of the terms of the Plymouth patent; and it was believed that there was some influence arising from the consideration that Rhode Island was of small extent, while the Territory of Massachusetts was already very large.—1 Bradford, 107.

"Plymouth Colony adjoining to the Massachusetts, some short disputes subsisted between them concerning bounds. In order to settle the controversy, commissioners were appointed in the year 1640; namely, John Endicot and Israel Stoughton for the Massachusetts, and William Bradford and Edward Winslow for the Plymouth. It was not then effected. An observation had been taken by Nathaniel Woodward, in the year 1638, upon part of Charles river, 41 degrees 59 minutes north latitude, the river still running southward, the persons employed not being able to proceed farther for want of provisions. In 1642 the northern bounds of the Massachusetts were ascertained by the same Woodward, with Solomon Saffery, and a station fixed which has since been allowed to be the Massachusetts corner, three miles south of Charles river, and from this corner the lines between the Massachusetts and the Governments of Plymouth, Rhode Island, and Connecticut, have been run and confirmed by acts of the several Governments."—1 Hutchinson, 208.

NOTE.—"There has been a pretence started or revived of late years, that the Massachusetts had extended the southerly part of Charles river to a brook too small to be accounted a branch of it; but such pretences, after so many years' acquiescence, can have little weight, especially if it be considered that what is now a small brook, after the country has been opened

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and cleared of wood for an hundred years, may probably have been a navigable stream for canoes and boats at the time of fixing the station."—Idem.

"It is certain that, for divers years past, the only part in controversy between the two Governments was a small gore of land between Attleborough, in Massachusetts, and the old township of Providence. Besides a settlement made by commissioners in 1664 or 1665, another settlement had been made, or the old one confirmed, in 1708; but Rhode Island, encouraged by the ill success of the Massachusetts in the controversy with New Hampshire, applied to His Majesty to appoint commissioners to settle the line between the two Governments.

"The argument which had been made use of in former controversies, that Massachusetts was too extensive, and the other Governments they were contending with, of which New York was one, were too contracted, now revived. To the surprise of Massachusetts, a line was determined which not only took from them the gore formerly in dispute, but the towns of Bristol, Tiverton, and Little Compton, and great part of Swansey and Barrington."—2 Hutchinson, 400.

Council of Plymouth held a monopoly.—1 Bancroft, 292:

"After two years' entreaty, the adventurers gained every thing which they had solicited, and King James issued to forty of his subjects, some of them members of his household and his government, the most wealthy and powerful of the English nobility, a patent, which, in American annals, and even in the history of the world, has but one parallel. The adventurers and their successors were incorporated as "The Council established at Plymouth, in the county of Devon, for the planting, ruling, ordering, and governing New England, in America." The territory conferred on the patentees in absolute property, with unlimited jurisdiction, the sole powers of legislation, the appointment of all officers and all forms of government, extended in breadth from the fortieth to the forty-eighth degree of north latitude, and in length, from the Atlantic to the Pacific; that is to say, nearly all the inhabited British Possessions to the north of the United States, all New England, New York, half of New Jersey, very nearly all Pennsylvania, and the whole of the country to the west of these States, comprising, and at the time believed to comprise, much more than a million of square miles, and capable of sustaining far more than two hundred millions of inhabitants, were, by a single signature of King James, given away to a corporation within the realm, composed of but forty individuals. The grant was absolute and exclusive; it conceded the land and islands, the rivers and the harbors, the mines and the fisheries. Without the leave of the Council of Plymouth, not a ship might sail into a harbor from Newfoundland to the latitude of Philadelphia; not a skin might be purchased in the interior, not a fish might be caught on the coast, not an emigrant might tread the soil. No regard was shown for the liberties of those who might become inhabitants of the colony; they were to be ruled, without their own consent, by the corporation in England. The patent favored only the cupidity of the proprietors, and possessed all the worst features of a commercial monopoly."

"The Council of Plymouth, for New England, having obtained of King James the boundless territory and the immense monopoly which they had desired, had no further obstacles to encounter but the laws of nature and the remonstrances of Parliament. No tributaries tenanted their countless mil-

lions of uncultivated acres, and exactions upon the vessels of English fishermen were the only means of acquiring an immediate revenue from America.

"But the spirit of the Commons indignantly opposed the extravagant pretensions of the favored company, and demanded for every subject of the English King the free liberty of engaging in a pursuit which was the chief source of wealth to the merchants of the west. 'Shall the English,' said Sir Edwin Sandys, the statesman so well entitled to the enduring gratitude of Virginia, 'be debarred from the freedom of the fisheries—a privilege which the French and Dutch enjoy? It costs the kingdom nothing but labor, employs shipping, and furnishes the means of a lucrative commerce with Spain.' 'The fishermen hinder the plantations,' replied Calvert, 'they choke the harbors with their ballast, and waste the forests by improvident use. America is not annexed to the realm, nor within the jurisdiction of Parliament; you have therefore no right to interfere.' 'We may make laws for Virginia,' rejoined another member, intent on opposing the flagrant benevolence of the King, and wholly unconscious of asserting, in the earliest debate on American affairs, the claim of Parliament to that absolute sovereignty, which the colonies never acknowledged, and which led to the war of the Revolution; 'a bill passed by the Commons and the Lords, if it receive the King's consent, will control the patent.' The charter, argued Sir Edward Coke, with ample reference to early statutes, was granted without regard to previously existing rights, and is therefore void by the established laws of England. So the friends of the liberty of fishing, in the Commons, triumphed over the advocates of the royal prerogative, though the Parliament was dissolved before a bill could be carried through all the forms of legislation."

1 Bancroft, 351:

The jealousy of the English nation, incensed at the concession of vast monopolies by the exercise of the royal prerogative, immediately prompted the House of Commons to question the validity of the grant.

1 Bancroft, 353, 17:

"It was monstrous thus to attempt to seal up a large portion of an immense continent; it was impossible to carry the ordinance into effect; and here, as so often, despotism caused its own fall. By desiring strictly to enforce its will, it provoked a conflict in which it was sure of being defeated.

1 Bancroft, 354:

But when Parliament was again convened, the controversy against the charter was once more renewed, and the rights of liberty found an inflexible champion in the aged Sir Edward Coke, who now expiated the sins of his early ambition by devotion to the interests of the people. It was in vain that the patentees relinquished a part of their pretensions; the Commons resolved that English fishermen shall have fishing with all its incidents. "Your patent" (thus Gorges was addressed by Coke from the Speaker's chair) "contains many particulars contrary to the laws and privileges of the subject; it is a monopoly, and the ends of private gain are concealed under color of planting a colony." "Shall none," observed the veteran lawyer in debate, "shall none visit the sea coast for fishing? This is to make a monopoly upon the seas, which want to be free. If you alone are to pack and dry fish, you attempt a monopoly of the wind and the sun." It was in vain for Sir George Calvert to resist. The bill passed without amendment, though it never received the royal assent.

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"It may be well to state, in this connexion, that the Council established at Plymouth, in a very short period after the grant of the Massachusetts charter, (in 1635,) finally surrendered their own patent back to the Crown. They had made other grants of territory, which we shall hereafter have occasion to notice, which had greatly diminished the value as well as importance of their charter. But the immediate cause of the surrender was the odious extent of the monopolies granted to them, which roused the attention of Parliament and of the nation at large, and compelled them to resign what they could scarcely maintain against the strong current of public opinion."—1 Story on Constitution, 53.

"The Puritans, persecuted at home, and groaning under the weight of spiritual bondage, cast a longing eye towards America, as an ultimate retreat for themselves and their children. They were encouraged by the information that the colonists at Plymouth were allowed to worship their Creator according to the dictates of their consciences, without molestation. They opened a negotiation, through the instrumentality of a Mr. White, a distinguished non-conforming minister, with the Council established at Plymouth; and in March, 1627, procured from them a grant to Sir Henry Rosewell and others, of all that part of New England lying three miles south of Charles river, and extending from the Atlantic to the South Sea."—1 Story, 46.

Difficulties in defending and maintaining the Charter of Massachusetts.

"The general patent for New England was surrendered to the King, to obtain of him a confirmation of their respective grants, and to invoke the whole force of English power against the charter of Massachusetts, were, at the same time, the objects of the members of the Plymouth company, distinctly avowed in their public acts.

"Now was the season of the greatest peril to the rising liberties of New England. The King and Council already feared the consequences that might come from the unbridled spirits of the Americans. His dislike was notorious; and, at the Trinity term in the Court of King's Bench, a *quo warranto* was brought against the Company of the Massachusetts Bay. At the ensuing Michaelmas, several of its members who resided in England made their appearance, and judgment was pronounced against them individually; the rest of the patentees stood outlawed, but no judgment was entered up against them."—1 Bancroft, 442.

"The subsequent struggles between the Crown and the colony, down to the overthrow of the charter, under the famous *quo warranto* proceedings in 1684, manifest a disposition on the part of the colonists to yield nothing which could be retained, and on the part of the Crown to force them into absolute subjection."—1 Story, 50.

"But greater apprehensions were raised by a requisition, which commanded the letters patent of the Company to be produced in England—a requisition to which the emigrants returned no reply.

"Still more menacing was the appointment of an arbitrary special commission for the colonies. The Archbishop of Canterbury, and those who were associated with him, received full power over the American plantations; to establish the Government and dictate the laws; to regulate the church; to inflict even the heaviest punishments; and to revoke any charter which had been surreptitiously obtained, or which conceded liberties

prejudicial to the royal prerogative. The news of this commission soon reached Boston, and it was at the same time rumored that a general governor was on his way."—1 Bancroft, 439.

"Yet there was a period when the Ministry of Charles hoped for success. No considerable resistance was threatened within the limits of England, and not even America could long be safe against the designs of despotism."—1 Bancroft, 444.

"A. D. 1645. But now the apparent purpose of advancing religious freedom was made to disguise measures of the deadliest hostility to the frame of civil government. The nationality of New England was in danger."—1 Bancroft, 473.

"The new party desired to subvert the charter government, and introduce a general governor from England."—1 Bancroft, 474.

"For Gorton had carried his complaints to the mother country, and, though unaided by personal influence, or by powerful friends, had succeeded in all his wishes. At this very juncture, an order respecting his claims arrived in Boston, and was couched in terms which involved an assertion of the right of Parliament to reverse the decisions and control the government of Massachusetts. The danger was imminent; it struck at the very life and foundation of the rising Commonwealth. Had the Long Parliament succeeded in revoking the patent of Massachusetts, the Stuarts, on their restoration, would have found not one chartered government in the Colonies, and the tenor of American history would have been changed. The people rallied with great unanimity in support of their magistrates."—1 Bancroft, 475.

Copy of commission from Charles the 2d, to settle disputes about boundaries, 1664.

No. 4.

Charles the Second, by the Grace of God King of England, Scotland, France, and Ireland, Defender of the Faith, &c.—To all to whom these presents shall come, greeting:

Whereas we have received several addresses from our subjects of several colonies in New England, all full of duty and affection, and expressions of loyalty and allegiance to us, with their humble desires that we would review their several charters, and receive them into our favorable opinion and protection; and several of our colonys there, and other of our loving subjects, have likewise complained of differences and disputes, arisen about the limits and bounds of their several charters and jurisdictions, whereby unneighbourly and unbrotherly contentions have and may arise, to the damage and discredit of the English interest; and that all our good subjects residing there, and being planters within the several colonys, do not enjoy the libertys and priviledges granted to them by our several charters, *upon confidence and assurance of which they transported themselves and their estates* into those parts: and we having received some addresses from the great men and natives of those countreys, in which they complain of breach of faith, and acts of violence and injustice which they have been forced to undergo from our subjects, whereby not only the Government is traduced, but the reputation and credit of Christian religion brought into prejudice and reproach, with the Gentiles and inhabitants of those countreys

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who know not God, the reduction of whom to the true knowledge and fear of God is the most worthy and glorious end of all those plantations. Upon all which motives, and as an evidence and manifestation of our fatherly affection towards all our subjects in those several colonys of New England, that is to say: of Massachusetts, Connecticut, New Plymouth, Rhode Island and the Providence Plantations, and other plantations within that tract of land known under the appellation of New England; and to the end we may be truly informed of the state and condition of our good subjects there, that so we may the better know how to contribute to the further improvement of their happiness and prosperity: Know ye, therefore, that we, reposing especial trust and confidence in the fidelity, wisdom, and circumspection, of our trusty, welbeloved Collonel Richard Nickolls, Sr. Robert Carr, knt., George Cartright, esq., and Samuel Maverick, esq., of our especial grace, certain knowledge, and mere notion, have made, ordained, and constituted, and appointed, and by these presents do make, ordain, constitute, and appoint the said Coll. Richard Nickolls, Sr. Robert Carr, George Cartright, and Samuel Maverick, our commissioners, and do hereby give and grant unto them, or any three or two of them, or the survivors of them; of whom we will that the said Coll. Richard Nickolls, during his life, shall be always one, and upon equal division of opinions to have the casting and decisive vote; in our name to visit all and every the several colonys aforesaid; and, also, full power and authority to hear and receive, and to examine and determine all complaints and appeals, in all causes and matters, as well military as criminal and civil, and proceed in all things for the providing for and settling the peace and security of the said countrey, according to their good and sound discretions, and to such instructions as they, or the survivors of them, have, or shall from time to time receive from us in that behalf; and from time to time, as they shall find expedient, to certify us, or our privy council, of their actings and proceedings touching the premises; and for the doing thereof, or any other matters or thing relating thereunto, these premises, or the enrolement thereof, shall be unto them, and every of them, a sufficient warrant and discharge, in that behalf.

In witness whereof, we have caused these our letters to be made patents. Witness ourself, at Westminster, the twenty-fifth day of April, in the sixteenth year of our reign.

RHODE ISLAND, *ss:*

The aforewritten is a true copy of a copy lodged with his honor the Governor of Rhode Island, &c.

R. WARD, *Secretary.*

A true copy examined:

Pr. SAMUEL TYLEY, *Clerc.*

A true copy.

Attest:

JOHN P. BIGELOW,
Secretary of the Commonwealth of Massachusetts.

BOSTON, *October* 15, 1742.

"But the direction contained in this letter not being strictly attended to, and complaints being made to the King of disputes which had arisen in divers parts of New England, concerning the limit of jurisdiction, and ad-

dresses having been presented by several persons praying for the royal interposition, a commission was issued under the great seal to Colonel Richard Nickols, Sir Robert Carre, knight, George Carteret, and Samuel Maverick, Esqs, empowering them 'to visit the several colonies of New England, to examine and determine all complaints and appeals in matters civil, military, and criminal; to provide for the peace and security of the country, according to their good and sound discretion, and to such instructions as they should receive from the King, and to certify him of their proceedings.

"This commission was highly disrelished by the colony, as inconsistent with the rights and privileges which they enjoyed by their charter, and which the King had sacredly promised to confirm. It is therefore no wonder that the commissioners were treated with much coolness at their arrival, but they severely repaid in their report to the King.

"In their progress through the country they came to Pascataqua, and inquired into the bounds of Mason's patent. They heard the allegation of Whelewright, who, when banished by the colony, was permitted to reside immediately beyond what was called the bound-house, which was three large miles to the northward of the river Merrimack. They took the affidavit of Henry Jocelyn, concerning the agreement between Governor Cradock and Captain Mason, that the river should be the boundary of their respective patents. They made no determination of this controversy in their report to the King; but having called together the inhabitants of Portsmouth, Sir Robert Carre, in the name of the rest, told them that 'they would release them from the government of Massachusetts, whose jurisdiction should come no further than the bound-house.' They proceeded to appoint justices of the peace and other officers, with power to act according to the laws of England, and such laws of their own as were not repugnant thereto, until the King's pleasure should be further known."—1 Belknap, 105.

"The people of Massachusetts have, both in former and latter times, been charged with disloyalty to the King in their conduct toward these commissioners, and their disregard of authority derived from the same source with their charter. To account for their conduct on this occasion, we must consider the ideas they had of their political connexion with the parent State."—1 Belknap, 113.

"The commissioners had no better success at Connecticut than in the Massachusetts colony. At Plymouth and Rhode Island, they met with less opposition. They sat as a court at Providence and Warwick, in the colony of Rhode Island, and spent divers months in the colony, examining into purchases and titles of lands from the Indians, hearing the complaints of Gorton and his company against the Massachusetts, inquiring into the proceedings of the executive powers of that colony, and receiving all complaints which discontented persons were ready to offer."—1 Hutchinson, 249.

"From the restoration until the vacating the charter, the Colony never stood well in England. The principal persons, both in church and state, were never without fearful expectations of being deprived of their privileges. The years 1664 and 1665 afforded them greater occasion for fears than they had met with at any time before. In the spring of 1664, intelligence was brought that several men of war were coming from England, and several gentlemen of distinction aboard them."—1 Hutchinson, 229.

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"And apprehending it to be of great concernment that the patent or charter should be kept secret and safe, they ordered the secretary to bring it into court and to deliver it, together with a duplicate, to four of the court, who were directed to dispose of them as might be most safe for the country."—*Idem*, 230.

"In this and other controversies about boundaries, it has been the misfortune of the Massachusetts province to have been represented as too great and powerful a province, that His Majesty's small province of New Hampshire, the small colony of Rhode Island, were oppressed and borne down," &c.—*Idem*, 345.

"Massachusetts' south line was set off according to the letter of the charter, from three miles south of the head of Stop river, in Wrentham, being the most southerly branch of Charles river; it falls into the main body of Charles river at Medfield."—1 Doug., 415.

"Stop river, which rises in Wrentham, was pitched upon as the most southerly branch of Charles river, and at three miles south of the head of this river the south line of Massachusetts bay was delineated; Stop river falls into the main body of Charles river at Medfield."—*Idem*, 463.

Eleazer Metcalf, of Wrentham, in the county of Suffolk, aged sixty-five years, deposeth and saith, that he well knew a lott of land in said Wrentham, owned by Mr. Anthony Hancock, and also a lott of land owned by Deacon Samuel Fisher, deceased, both which lotts ly on Wrentham great plain; that he has known the said lotts of land for about fifty-five years past, said Hancock's lott lying to the southward of Fisher's lott; that the deponent labored in both the said lotts as long since as fifty-five years; that the said Samuel Fisher often told this deponent, at that distance of time and since, that in a lott of land then unimproved, lying eastward of said Henry Hancock's lott, and adjoining thereto, (now owned by John Hancock,) stood Woodward and Saffry's station; that the same was a stake, seen by the deponent for some years afterwards, and that it was a few rods southeastward of the northwest corner of the s'd Anthony Hancock's lott, not exceeding eight or twelve rods; and the deponent is the more certain of the place from the following circumstances, namely, that there was a stamping place on a lott of land lying westward of said Deacon Fisher's lott, and adjoining thereto, being under a large oak tree, the stump of which still remains, and that it was a noted stamping place for horses, and that the said lott is now owned by said John Hancock, whose dwelling house and barne now standeth thereon.

And further this deponent declares, that he perfectly remembers that the northwest corner of said Anthony Hancock's lott, and the southwest corner of said Samuel Fisher's lott aforesaid, butted one against the other, saving as they are divided by a town road or highway; that said John Hancock ownes the said Anthony Hancock's lott, and is now owner of these lotts; that said Samuel Fisher's lott is now owned wholly, or at least the south part of it, by Isaac Blake.

And this deponent further declares, he has also heard said Anthony Hancock, his father Eleazer Metcalf, his uncle, the said Samuel Fisher, and Ebenezer Fisher, say that the said stake was Woodward and Saffry's station or stake, and it was confirmed by the voice of other aged people in those days.

And this deponent further testifys and says, that ever since he can remember, and to the present time, the pond commonly called Whiting's mill

pond, and the streme running through the same in said Wrentham, has been called, and esteemed to be, the southerly part of Charles river.

ELEAZER METCALF.

WRENTHAM, *May 23d*, 1750.

Joseph Cowel, of Wrentham, in the county of Suffolk, aged seventy-three years, testifies and says, that many years since when Mr. James Taylor, of Boston, and other gen't set up a quardent in order to run a line for the south bounds of ye Massachusetts government, that it was set up at a place called Woodward and Saffry's station, on Wrentham Great plain, that it was a little southward of the house in which John Hancock now lives, which house was formerly owned by his father Henry Hancock. That some years after, this deponent was imployed by the late Colo'l John Chandler, of Woodstock, and others, in running a line west from the place called Woodward and Saffray's station, and attended them on said line as far as Petuckett river; and this deponent further testifys and says, that he, and the ancient men of said Wrentham, have from time to time to this day, called and esteemed the pond, commonly called Whiting mill pond, and the stream running through the same to be the southerly branch of Charles river.

JOSEPH COWEL.

WRENTHAM, *May 23d*, 1750.

Eleazer Ware, of Wrentham, in the county of Suffolk, aged seventy-three years, testifieth and saith, that sixty-five years ago, at least, he has often heard his father and many other old men say, that Woodward and Saffry's station, so called, stood on Wrentham Great plain, that when Mr. Taylor and other gen't were appointed to run the south bounds of this province, they began at the said station, being at a place a little southward of John Hancock's house in which formerly lived Henry Hancock; that they run from the said station westward, this deponent being then one of their attendance; that some years afterwards, when the said south bounds were run by a committee of this province, of which number the late Colo'l John Chandler was one, this deponent was improved as a chainman, and did actually carry the chain from Whiting's mill pond, so called, to the said Great plain, where it was then said that Woodward and Saffery's station stood.

And this deponent further testifies and says, that he, and the ancient men of said Wrentham, in his day, called and esteemed ye stream which runs through Whiting's mill pond, so called, in said Wrentham, to be the most southerly part or branch of Charles river.

ELEZER WARE.

Nathaniel Man, of Wrentham, in the county of Suffolk, aged seventy-two years, testifies and says, that he is well acquainted with the place on Wrentham Great plain, where Woodward and Saffrey's station stood, being a little southward of the house where John Hancock now dwells, formerly owned by Henry Hancock, and that he has often heard (when he was a boy) the old men say that the said station was in the said plain. And further this deponent says, that when Mr. Taylor and others, commissioners on the part of this province, went on the line from the said station to Connecticut river, he went with them from Mendon to roind for and was em-

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ploy'd as an assistant therein. And this deponent further declares that ever since he was a boy, bothe he and the men of said Wrentham of his age alalong have esteemed the pond called Whiting mill pond and the stream which runs thro' it, to be the southerly part or branch of Charles river.

NATHANEL MAN.

WRENTHAM, *May* 23*d*, 1750.

Jonathan Wight, of Wrentham, in the county of Suffolk, of lawfull age, testifieth and saith, that when the line of the southern bound of this province was run by a committee on the part of the said province about forty years since, he saw the said committee set up a quadrant at a place called Woodward and Saffry's station, on Wrentham Great plain, a little southward of the house where John Hancock now dwells, where his father Henry Hancock formerly lived. This deponent was then driving plow with his father, who told him the said committee were running the line of government from the said station, and this deponent hath often heard his father say that Woodward and Saffry's station was on the plain aforesaid. And this deponent's father and he went with the said committee about half a mile on the said line.

JONATHAN WIGHT.

WRENTHAM, *May* 23*d*, 1750.

THIRD CLASS.

No. 1.

LEGISLATIVE PROCEEDINGS, APPOINTMENTS OF COMMITTEES, REPORTS, AGREEMENTS, AND ACT OF RHODE ISLAND, MAY, 1705.

Colony of Rhode Island and Providence Plantations, in General Assembly, May, 1705.

"Whereas some of the freemen, inhabitants of the township of Providence, in this her majestie's colony of Rhode Island and Providence Plantations, have laid befor this assembly several weighty reasons praying that the boundary lines between this her majestie's colony, according to our charter, and her majestie's province of the Massachusetts bay might be run and fully known, ye which we conceive will be very needfull and of good consiquence to both said collonys, viz: the collony north line, running from Puttuxett falls until it meets with the south bounds of her majestie's province of sd. Massachusetts, and from thence ye line running west on the collony line, being the boundery one, that part between said collonys until it comes unto the boundary betwixt this her majestie's collony and her majestie's collony of Connecticut, and that the same may be accomplished as speedily as can be.

"Be it enacted by this present assembly and the authority thereof, and it is hereby enacted, that our secretary, Mr. Weston Clark, by a letter, give an account hereof to his excellency Coll. Joseph Dudley, esq., governor of her majestie's province of the Massachusetts bay, &c., requesting him to lay the same before the general assembly of s'd province, said request for a speedy accomplishment.

And be it further enacted, that our said secretary is hereby further authorized and impowered to write to ye general assembly of her majestie's said province of the Massachusetts bay, to desire them to chuse and impower some persons, commissioners, to see and cause said line to be run, and that they be impowered for said service. And we, her majestie's assembly of s'd collony of Rhode Island and Providence Plantations, doe hereby order, nominate and appoint, and give full power and authority too Maj. William Hopkins, Mr. Joseph Jenkes, and Mr. Thomas Olney, commissioners in behalf of the collony, to see said line run at such time as shall be appointed by said commissioners; and that they be allowed and paid their reasonable charge out of the general treasury.

No. 2.

PETITION OF MENDON.

Petition of Mendon ab't Rhode Island molestations, 1705.

To the honourable General Court now sitting in Boston, September 5, 1705.

The complaint of the select men of Mendon, on the behalf of s'd town, humbly sheweth: That our town having heard a report of a claime made by the town of Providence to a considerable tract of land, near half our township, and more lands within our province by far than our township contains, by virtue of a deed from the Indians, sachems of the Narrhaganset countroy, and that they were laying out s'd tract, and had chosen a committee to treat with our town about our interest in s'd tract; our town took notice of the same, so farre as to choose a committee to treat them, on purpose to gain what light we could of the foundation their claims stood upon; and upon a meeting with them, we understood (tho' our committee could gaine no proper information from them) that they claim from two Narrhaganset sachems, and are by deed to run twenty miles west up into the country, from an hill below the cove in the old town of Providence, called by them Fox hill, and from thence a north line to Puttokkot river, without limits, which north line we suppose will reach above Worcester. Wee thought it our duty to lett this honourable court understand, so far as we can, this claim, and pray we may be informed what our duty is, and what course we must take to defend ourselves from them who are resolved to lay out our lands claimed by them, fearing lest it may tend to the breeding quarrells, which may have an uncomfortable issue, our town have chosen Capt. Josiah Chapin, esqr., to bring this our complaint, and to wait such an answer as may informe us what is further to be done by y'r honor's humble servants.

JOHN DARLING,
JAMES G. LOVET,
SAM'L READ.

June 26, read and committ'd to ye comm'tte for petitions.

September 15th, 1705.—*In council.*

Upon reading the complaint of the select men of Mendon, setting forth that the inhabitants of Providence go about to intrude upon the lands of

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this province, and particularly upon the townships of Mendon, in running lines, &c.

Ordered, that the selectmen of Mendon doe seasonably forbid them, and if, notwithstanding such warning, they doe persist, that then they deface the marks by them made, and use prudent methods to apprehend the ring-leaders, and commit them to custody to answer their unjust and irregular proceedings.

No. 3.

PROCEEDINGS THEREON BY MASSACHUSETTS.

In the house of representatives, August 8, 1706.

In answer to the petition on the other side:

Ordered, that his excellency the governor be desired to write to the government of Rhode Island, and acquaint them of the trespasses comitted by the inhabitants of that colony upon this province, and the great damage that may probably ensue through mistakes about the line between this province and the s'd colony, and desire them to appoint a committee to joine with a committee appointed by this court, to run the line and settle the boundaries between this province and the s'd colony, so far as the late colony of the Massachusetts bay extended, according to the charter of this province.

That Nathaniel Byfield, Nath'l Payne, esqrs., Nathaniel Blagrove, Maj. Samuel Thaxter and Capt. John Ware, or any three of them, be a committee for the affaire afores'd, and make report of their doings to this court, at their first session after they have performed the s'd service.

Sent up for concurrence.

THOMAS OAKES, *Spea'r.*

In the house of representatives, Nov. 5, 1706. Ordered, that the above written vote be revised and sent up for concurrence.

THOMAS OAKES, *Sp'r.*

Nov'r 6, 1706, read in council and not agreed.

JSA. ADDINGTON, *Sec'y.*

No. 4.

VOTE OF THE HOUSE OF REPRESENTATIVES—NON-CONCURRED.

On the petition of Mendon:

Ordered, that his excellency the governor be desired to write to the government of Rhode Island, and acquaint them of the trespasses committed by the inhabitants of that colony upon this province, and the great damage that may probably ensue through mistakes about the line between this province and the s'd colony, and desire them to appoint a committee to joine with a committee appointed by this court, *to run the line and settle the boundaries between this province and the s'd colony, so far as the late colony of the Massachusetts bay extended, according to the charter of this province.*

That Nathaniel Byfield, Nath'l Payne, esqrs., Nathaniel Blagrove, Major Samuel Thaxter, and Capt. John Ware, or any three of them, be a committee for the affaire afores'd, and make report of their doings to this court, at their first session after they have performed the s'd service.

Sent up for concurrence. THOMAS OAKES, *Spea'r.*

In the house of representatives, Nov. 5, 1706. Ordered, that the above written vote be revised and sent up for concurrence.

THOMAS OAKES, *Sp'r.*

Nov'r 6, 1706, read in council and not agreed.

JSA. ADDINGTON, *Sec'y.*

No. 5.

ORDER OF GENERAL COURT, AND GOVERNOR DUDLEY'S LETTER.

Nov. 6, 1706.

Order for a committee to goe upon the line betwixt this province and Rhode Island, with his exc'ys letter to that government.

In council, Nov. 6, 1706.—Upon reading this day at the board a complaint, exhibited by the selectmen of Mendon, of encroachments and a claim made by the inhabitants of Providence, on pretence of an Indian deed, to near halfe the township of Mendon, and other lands lying within this province.

Ordered, that Nathaniel Byfield and Nathaniel Payne, esqrs., Mr. Nathaniel Blagrove, Major Samuel Thaxter, and Capt'n John Ware, or any three of them, be a committee to goe upon the ancient stated line of the boundary betwixt this province and the colony of Rhode Island and Providence Plantation, to the extent of the late colony of the Massachusett's bay, according to the grant and royal charter of this province; and to renew the bound markes where there shall be need.

And that his excellency the governor be desired to write to the government of Rhode Island, to acquaint them of this court's appointment of a committee for the service aforesaid, that they may appoint persons, on the part of that government, (if they think fit,) to attend at the time and place to be agreed upon by ours, to see and take knowledge of our line, that their government may give the necessary orders to restrain their people from makeing any encroachm'ts or disturbance.

The said committee to make report of their doings to this court, at their next session, after they have performed the said service.

JSA. ADDINGTON, *Sec'y.*

Sent down for concurrence.

In the house of representatives, Nov'r 6, 1706.—Read twice, and pass'd a concurrence.

THOMAS OAKES, *Speak'r.*

Letter to Gov'r Cranston.

Boston, 6 *November*, 1706.

S'r: The general assembly of this province, now sitting, have acquainted mee that they have before them a complaint from the town of Mendon, that *they are disturbed in their improvements*, and otherwise, by some of the inhabitants of Providence, upon pretence of title to lands lying within this province, and particularly those that are assigned to the town of Mendon aforesaid; and have desired of me, thereupon, that certain commissioners may be sent to *review the antient line of this province, settled sixty-four years since* by sworn and approved surveyors; and accordingly Nathan'l

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Byfield and Nathan. Payne, esqr's., Mr. Nathan. Blagrove, Major Sam'l Thaxter, and Capt'n John Ware, or any three of them, are appointed and impowered to *review and run the said line according to the antient boundarys and marks, without the least alteration thereof*, saving in all difficult places where the line is hard to be found, that they open and adde to the marks, stakes, and heaps of stones, what is necessary to make them more apparent. And I have thereupon directed Colonel Byfield to appoint the time and place of the meeting of the said gentlem'n commissioners, and also to give your honor a letter signifying the place, so that, if you please to, you may direct any gentlemen of your colony to see the said lines upon which *your Providence Plantation are adjoining, that there may be no further complaint nor hindrance of improvements*, neither on your part nor on the part of this province. If this notice do purport the general assembly or any other court of his majesty's colony under your government, you will please to give it, *that the proceedings may be open, and of the better service and effect for the ease and satisfaction of the borderers on both sides.*

I am, sir, your very humble serv't, J. D.

No. 6.

ACT OF ASSEMBLY OF RHODE ISLAND, FEBRUARY, 1707.

Colony of Rhode Island and Providence Plantations, in general assembly, February, 1707.

"Whereas Coll. Dudley, Gov'r of ye Massachusetts bay, in New England, hath signified to this collony now assembled, yt their general assembly at Boston, sitting ye 6th of November, 1706, upon the complaint of som of Mendon against som of Providence, yt upon pretence of title of lands lying within their province, and peticularly those that are signed to ye town of Mendon; and have desired him to appoint yt sertain commissioners may be sent to renew the antient line of their province, settled sixty-four years since by sworne and approved surveyors; and accordingly Nath'l Byfield and Nath'l Paine, esqs., Mr. Nath'l Blagrove, Maj. Sam'l Thacher, and Capt. John Wards, or any three of them, are appointed and empowered in answer to s'd act of general assembly in Boston, baring date as aforesaid.

Be it enacted by this assembly and ye authority hereof, and it is hereby enacted, yt commitioner shall be chosen out of our government to take an inspettion into what s'd commitioners shall doe on yt survey; and if s'd commitioners take their departure right then to run with them, that so a peace may be continued between them and us; but if otherwise, to forwarne and forbid them, and cause them to desist, and in spetiall if they shall run their line across ye river yt is called Pautukett or Blackstone river, and so to enter on ye lands of Providence township, which they hold of or from this collony, and allso to run an north line between them and us from Pauticket falls, to meet the south line of the Massathusett. We therefore appoint and authorize Mr. Thomas Olney, Capt. Joseph Jenks, Capt Richard Arnold, Mr. Jonathan Sprague, Major Randall Holding, and Capt. James Carder, or ye major part of them; and allso yt notis shall forthwith be sent by his honor, ye governor, to the government of Conitticot, yt they likewise may come if they please and see ye departure that so they may have no wrong as well as us.

No. 7.

PROCEEDINGS OF RHODE ISLAND, MAY, 1707 TO 1709.

Colony of Rhode Island and Providence Plantations, in general assembly, May, 1707.

"Be it further enacted, that whereas there were commissioners chosen by this collony to treat with ye gentlemen of Boston about the north bounds of this collony, it is ordered yt said commissioners shall be allowed out of the general treasury forty-eight shillings money.

Colony of Rhode Island and Providence Plantations, in general assembly, October, 1707.

"Voted, this assembly having considered ye sircumstance of the late differance yt hath happened between ye town of Providence and ye town of Mendon, and doe well approve of the honorable governor's letter to the governor of the Masathusett; and wee judge itt expedient for this assembly to lay ye matter before the general assembly of the Masathusetts now sitting, for their concurrance with us; and yt there may be commitioners now appointed and fully impowered *to treatt and settle* ye same, which are, (viz:) Major Randall Holding, Capt. James Carder, Capt. John Eldred, Capt. Thomas Fry, and Mr. Weston Clark, or the major part of them, with such as may be appointed by the gov'nment of the Masathusett, if they see good; but if they refuse, then ye matter may be represented to our agent in England, to procure, if it can be attained, her majestie's order for ye settling the same.

Colony of Rhode Island and Providence Plantations, in general assembly, March, 1709.

"Voted, and it is further enacted by ye authority aforesaid, yt the committee nominated and appointed at ye assembly at Warwick, October, 1707, to run ye collony north line and easterly line between ye province of ye Masachusetts and our collony, be still continued, and are ordered to proceed on sd. work ye sixteenth of May next."

Colony of Rhode Island and Providence Plantations, in general assembly, May, 1709.

It is further enacted, yt whereas ye comite chosen for stating ye bounds betwixt this collony and the province of Boston, appointed to meet at Providence, on ye 1st of this instant, it is ordered, yt they shall meet ye last Monday in June next.

Colony of Rhode Island and Providence Plantations, in general assembly, October, 1709.

Be it further enacted by the authority aforesaid, that Capt. Jno. Eldred, Capt. James Carder, Maj. Wm. Hopkins, and Capt. Thomas Fry, to run the lines are appointed, as near as they can, between our collo'y and the province, according to both their charters, and to begin to worke on the second Tuesday of November; and Major Joseph Jenks, and Mr. Jona-

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than Sprague, to be assistances to said persons for advice, &c., and runn the north line from Pautuckett falls to the south line of said province.

No. 8.

1671

PROPOSAL OF MASSACHUSETTS FOR THE LINE OF ~~1771~~ NOT ACCEPTED.

The report of the committee for running the south line, viz:

Province of the Massachusetts bay.

WRENTHAM, *Nov.* 28, 1709.

Pursuant to the order of the general court of the said province, of the 27th of August last past, I, the subscriber, with Maj. Thaxter, Capt. Chapin, Capt. Morse, and Capt. Ware, being a committee appointed to join with commissioners from the colony of Rhode Island, for renewing the south line, mett with the said commissioners, at the house of the said Capt. Ware, in Wrenthem aforesaid, and declared to them the occasion of our meeting, and shewed and read to them a copy of the record of the running and settling the line by Maj. John Leverett, in the year ~~1761~~, and declared that we were ready to go with them and show them the said line, and to join with them in renewing it; but they answered us that they knew that line, but did not look upon it to be a true line between the said province and colony, according to the charters, neither did they account that there ever had yet been any such line regularly settled, and that they would not joyn with us in renewing that line, and thereupon we returned home.

Signed, JOHN CUSHING.

In the name and by order of the committee.

Which report was read.

[Vol. 9, p. 7.]

No. 9.

FURTHER PROCEEDINGS OF RHODE ISLAND, 1710.

Colony of Rhode Island and Providence Plantations, in general assembly, February, 1710.

Whereas, there hath been several committees appointed, by the authority of this collony, to meet with such of the province of Massachusetts bay, as should be by them appointed, for the stating and settling of the lines of jurisdiction, according to each of their charters; and there being appointed, by this collony, several meetings upon that head, which hath proved to noe effect, that when meett the gentlmen of the province appointed, having noe full commission to compleat the premises, which hath proved a considerable charge to the collony, and our endeavors frustrated: but some of our last committee, by order, runn said lines, which this assembly judges to be according to our charter; yett this assembly, being desirous to have a unanimous agreement for the stating of the same, have appointed and impowered the persons above mentioned in this actt, at Warwick; and this assembly doe desire, and fully impower our honorable governor to signify the same to the general assembly of said province, that they will ap-

point persons, fully commissionated, for the statering said lines, and appoint the time of meeting, and if our propositions be refused by said assembly of the province, then to proceed as may be thought best by the assembly of this collony.

Collony of Rhode Island and Providence Plantations, in general assembly, July, 1710.

Whereas, this assembly has been credibly informed, that his excellency Col. Dudley has declared, that if Maj. Joseph Jenks was impowered thereto, he doubted not but that they two should settle the misunderstanding about the lines of partition between his and this government. It is therefore enacted by the authority aforesaid, that the said Maj. Joseph Jenks, shall be hereby amply impowered to treat with his excellency Col. Dudley, and effectually to settle ye misunderstanding about the bounds of this collony, from Patucket falls on the north and west lines of partition, between that province and this collony, which so long has been contended; always, provided, it be accommodated in six months from the sitting of this assembly, and his hon'r the gov'r by the first opportunity, to inform his excellency of this act.

Colony of Rhode Island and Providence Plantations, in general assembly, October, 1710.

And be it further enacted, yt whereas Maj. Joseph Jenks being commissionated to treat with Gov'r Dudley, consearning ye settling ye bounds between ye province of ye Massachusetts and this government, yt in case Gov'r Dudley and himself should not agree so as to issue ye matter, then Maj. Jenks is hereby impowered and authorized to offer and conclude on such other terms as he may judge most proper, for ye interest of ye collony in ye ending and setling said controversy.

No. 10.

AGREEMENT OF JANUARY 19, 1710-'11.

"PROVINCE OF THE MASSACHUSETTS BAY, IN NEW ENGLAND.

Agreement of the Partition Line betwixt the Massachusetts and Colony of Rhode Island.

Anno Regni Reginæ anno nono.

ROXBURY, *January 19th*, 1710-'11.

"At a meeting of the persons underwritten, respectively appointed and impowered by the government of her majesty's province of the Massachusetts Bay on the one part, and the government of her majesty's colony of Rhode Island and Providence Plantations, in New England aforesaid, of the other part, as will appear by the votes and orders of the general assemblys of each of the said governments, of record in their several books.

"Having fully debated and duly considered the challenges on both sides depending upon the several charters and letters patent relating to the partition line betwixt the said respective governments, and being desirous to remove and take away all occasions of dispute and controversy betwixt

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the said governments relating thereto, and to continue and maintain the good neighborhood and correspondence which is at present betwixt her majesty's good subjects of both governments, for the honor of her majesty and the crown of Great Britain, upon whom these provinces and governments do always depend, have therefore mutually concluded and agreed in manner following, that is to say:

"That the stake set up by Nathaniel Woodward and Solomon Saffry, skilful approved artists, in the year of our Lord one thousand six hundred and forty-two, and since that often renewed, in the latitude of forty-one degrees and fifty-five minutes, being three English miles distant southward from the southermost part of the river called Charles river, agreeable to the letters patent for the Massachusetts province, be accompted and allowed, on both sides, the commencement of the line between the Massachusetts and the colony of Rhode Island, and to be continued betwixt the said two governments in such manner as that, after it has proceeded between the said two governments, it may pass over Connecticut river at or near Bissell's house, as is decyphered in the plan and tract of that line by Nathaniel Woodward and Solomon Saffry, now shown forth to us, and is remaining upon record in the Massachusetts government.

"And, whereas, upon presumption by mistake or ignorance of that line aforesaid, the inhabitants of the town of Providence, in the colony of Rhode Island and Providence Plantation, have surveyed and laid out several lotts and divisions of lands to the northward of Woodward and Saffry's line aforesaid, on the Massachusetts side; it is mutually and unanimously agreed, that there shall be and remain unto the said town of Providence and inhabitants of the government of Rhode Island and Providence Plantations, a certain tract of land of one mile in breadth, to the northward of the said line of Woodward and Saffry, as before described and platted, beginning from the great river of Pautucket, and so to proceed on the north side of the said patent line of equal breadth, until it come to the place where Providence west line cuts the said patent line, supposed to contain five thousand acres, be the same more or less, the soil whereof shall be and remain to the town of Providence, or others, according to the disposition thereof to be made by the government of Rhode Island aforesaid. Nevertheless, to continue and remain within the jurisdiction and government of her majesty's province of the Massachusetts Bay, any thing in this agreement to the contrary thereof, or seemingly so, notwithstanding; saving always, likewise, to any of the inhabitants of the Massachusetts their improvements by building or fencing in of land, within any part of the said mile of land before expressed, to be and remain to them and their heirs, according to their grants and improvements, with this proviso, that so much and so many acres as the occupiers or improvers shall be allowed upon the several challenges shall be added to the mile aforesaid, in some proper and convenient place, either at the side or end of said tract, so that the proprietors of the town of Providence or government of Rhode Island may not be losers thereby.

"And it is further agreed, that persons be nominated and appointed by the governor and council of each of the said governments, respectively, to attend the first good season for that end, within the space of six months from the date of these presents, to show the ancient line of Woodward and Saffry, and to raise and renew marks, stakes, and other memorials for the reviving, preserving, and continuing, of the certain knowledge and remem-

brance thereof in perpetuum; the gentlemen to be appointed to that service by the said governor and council of the Massachusetts to give seasonable notice to the governor of Rhode Island of the time and place for attending the same, that the gentlemen to be appointed on the one part of that government may meet and join them accordingly, so that the mile of land herein granted to the inhabitants of Providence as aforesaid, may proceed in the settlement and improvement thereof, for the benefit and advantage of both governments, and particularly to be a cover for the town of Providence against the insults of the Indian enemy. In witness whereof, the said parties to these presents have interchangeably set their hands and seals, the day and year first within written."

J. DUDLEY. [L. S.]
JOS. JENCKES, jr. [L. S.]

"Signed, sealed, and delivered, in the presence, and with the advice and consent of us,

Of the Massachusetts, . . { NATH'L PAINE. NATH'L BLAGROVE. SAM'L THAXTER.

Of the Colony of Rhode Island, { JONATHAN SPRAGUE. SAMUEL WILKINSON."

No. 11.

PROCEEDINGS OF RHODE ISLAND ON THIS AGREEMENT.

Colony of Rhode Island and Providence Plantations, in general assembly, March, 1711.

Be it enacted by this assembly, and ye authority thereof, and it is hereby enacted, yt whereas Major Joseph Jenks and Captain Samuel Wilkinson were commissionated and impowered by this assembly at their last sitting, November, 1710, to treat and agree with Colonel Joseph Dudley about the north bounds of this collony, which being accomplished to satisfaction, the said Major Jenks is hereby allowed £10 and the s'd Captain Samuel Wilkinson be allowed ye sum of £5 in money for their said service, to be paid out of ye general treasury of this collony.

And it is further enacted by the authority afores'd, yt Major Joseph Jenks and Mr. John Mumford, are hereby impowered to run the partission line between this collony and the Massathusets, pursuant to ye article made for that purpose, dated January 19th, 1710, always conforming to such necessary instructions as they, from time to time, shall receive from his hon'r the gov'r, who is hereby fully impowered to grant ye same, and when return is made of the proceeding ye s'd Maj. Jenks and Mr. John Mumford, to be paid for their so doing out of ye gen'l treasury of this collony.

No. 12.

PROCEEDINGS OF MASSACHUSETTS THEREON.

March 16, 1710.—Ordered that the settlement of the partition line between this province and the colony of Rhode Island, contained in the above and three foregoing pages, be accepted and approved, and the

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thanks of the court rendered to his excellency the governor and the gentlemen of this court that attended him, for their good service in effecting the same.

J. DUDLEY.

Vol. 9, p. 97.

No. 13.

FURTHER PROCEEDINGS OF RHODE ISLAND, 1711, 1716, 1717, 1718.

Colony of Rhode Island and Providence Plantations, in general assembly, May, 1711.

Whereas there is a petition of several of the inhabitants of the part of the Colony of Rhode Island, which lyeth on the north side of Patuckett river, in the jurisdiction of this Colony, that they may be supported in the rights and property in said jurisdiction. The Assembly, having taken the same into their serious consideration, have thought fit, and do hereby enact, that the hon'r governor, or those whom he shall appoint in the name and behalf this government, shall grant forth a prohibition that none shall presume to exercise any jurisdiction of authority within the lines already run, except it be the authority of this colony.

And it is further enacted by the authority aforesaid, That that part which the petitioners petition for, shall be under the jurisdiction of the town of Providence, and the authority of said town shall take care that no encroachment be made by any other province or colony upon that which is in the jurisdiction of this colony.

Colony of Rhode Island and Providence Plantations, in general assembly, May, 1716.

Whereas there hath been a vote, by the great and general court or assembly, held at Boston, upon Monday, May the 25th, 1715, now communicated to this assembly, by which wee are informed, by ye s'd assembly of the Massachusetts bay, have appointed a committee, on the part of that province, for the running of the line between s'd province and this government, according to the agreement made at Roxbury, January ye 19th, 1710, by commissioners for both governments then met. This assembly, taking the matter into their serious consideration, and judgeing it to be a matter of very great consequence to both governments to have their bounds truly and certainly settled, according to said agreement, do therefore nominate, choose, and appoint Joseph Jenks, Esq., deputy gov'r, Maj. Randall Holden, Maj. Thomas Ffry, Capt. Samuel Wilkinson, and Mr. John Mumford, to be a committee on the part of this collony, hereby delegating unto them, or the maj'r part of them, full power to meet and joyn with the afores'd committee for the province of Massachusetts bay, with them to run the s'd line, and finally to settle the bounds between the said two governments, according to the above-mentioned agreement; and upon the refusal or neglect of the committee, for the province of the Massachusetts bay, in joyning with the committee for this government to proceed as aforesaid, then the s'd committee for this government are directed and empowered to proceed, and fully to finish the said line, and make return to this assembly

at their next sessions of their proceedings herein. And that a copy of this act shall be full commissions to empower the s'd committee to run the said line, and that they be paid six shillings per diem each, for every day's services in s'd premises, and that their expence be paid out of the gen'l treasury.

Colony of Rhode Island and Providence Plantations, in general assembly, May, 1717.

Whereas Joseph Jenks, Esq., dept. gov'r, Maj. Randall Houlden, Maj. Thomas Fry, Capt. Samuel Wilkinson, and Mr. John Mumford, were, at a gen'l court of assembly of this collony, held at Newport, the first Wednesday of May, 1716, nominated and appointed a committee, on the part of this collony, to run and settle the dividing line between this collony and the Massachusetts bay; and this assembly, reposing especial faith and trust in the s'd committee, in their negotiating and sett'ing s'd line; therefore, it is hereby enacted by this assembly, that they, the said Joseph Jenks, Randal Houlden, Thomas Fry, Samuel Wilkinson, and John Mumford, be, and they are hereby, are continued, a committee to perform, do, and finish s'd service, and they are hereby fully impowered and authorized to proceed on, settle, and finish, with the Massachusetts commissioners, (and if they refuse or neglect, then without them,) the dividing line between the said collonys, according to the agreement made at Roxbury, January the 19th, 1710.

At a general assembly of his majesty's colony of Rhode Island and Providence Plantations, held at Newport, by adjournment, the 17th day of June, in the fourth year of his majesty's reign, annoy dmi. 1718.

"Whereas the committee appointed and impowered by the general assembly of this colony, at their sessions on the first Wednesday of May, 1717, to perfect and settle the line between the said colony and this province of the Massachusetts bay, were bound up or restricted to an agreement made at Roxbury, between Col. Dudley and Maj. Jenckes, &c., so as the matter in difference between the two colonies, as to the stating and settling the said line, hath been retarded, to the considerable charge of the colony: This assembly, taking the premises under their consideration, do hereby enact, constitute, and appoint Maj. Joseph Jenckes, Maj. Randal Holding, Maj. Thomas Fry, Captain Samuel Wilkinson, Esquires, and Mr. John Mumford, surveyor, a committee to treat and agree with such gentlemen as are or may be appointed and commissionated, with full power by the general assembly of the province of the Massachusetts bay aforesaid, for the final settling and stating the aforesaid line between the said colonys, hereby giving and granting unto the aforesaid Maj. Joseph Jenckes, Maj. Randal Holding, Maj. Thomas Fry, Capt. Samuel Wilkinson, and Mr. John Mumford, or the major part of them, our full power and authority to agree and settle the aforesaid line between the said colonies, in the best manner they can, as near agreeable to our royal charter as in honor they can compromise the same; and what the said committee, or the major part of them, shall agree to and confirm, under their hands and seals indented, shall be allowed and confirmed to be the stated and dividing line between the said colonys forever thereafter: but in case it shall so

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happen that the said committees, through any misunderstanding or otherwise, cannot or do not agree to settle and confirm the said dividing line upon honorable terms, then, and in that case only, this assembly do authorize and impower the aforesaid committee, or the major part of them, to run and mark out the said dividing line as near agreeable to the words of our charter as may be, and to plat the same and make return thereof to this or the next succeeding assembly after they have accomplished the same, any clause or clauses of acts to the contrary notwithstanding."

No. 14.

THE AGREEMENT OF 1718, OCTOBER 22.

"NEW ENGLAND, *ss:*

REHOBOTH, IN THE COUNTY OF BRISTOL,
October the 22d, 1718.

"At a meeting of us whose names are underwritten, being the major part of the committee appointed and impowered by the governments of the province of the Massachusetts Bay and the colony of Rhode Island and Providence Plantations, as will appear by the several votes and orders of the general assemblys of both the said governments upon record in their respective books, for the settling the east and west line between the said governments, (viz.) The south bounds of the said province and the north bounds of the said colony, which may issue all controversys between the said governments and their respective inhabitants, who are now in a very good neighborhood, the keeping of which will be for the honor of his majesty, the crown of Great Britain, on whom the said governments depend, have made this indented agreement following, (viz.) That the stake set up by Nathaniel Woodward and Solomon Saffery, in the year one thousand six hundred and forty-two, upon Wrentham plain, be the station or commencement to begin the line which shall divide between the two governments aforesaid, from which said stake the dividing line shall run so as it may (at Connecticut river) be two miles and a half to the southward of a due west line, allowing the variation of the compass to be nine degrees, which said line shall forever be and remain to be the dividing line and boundary between the said governments, any former difference, controversy, claim, demand, or challenge, whatsoever.

(Signed)
NATH'L PAYNE. [L. S.]
JOSEPH JENCKES. [L. S.]
NATH'L BLAGROVE. [L. S.]
RANDAL HOULDEN. [L. S.]
SAM'L THAXTER. [L. S.]
SAM'L WILKINSON. [L. S.]
THOMAS FRY. [L. S.]"

No. 15.

PROCEEDINGS OF RHODE ISLAND THEREON.

Bill, page 41:

"And your complainants further show unto your honors: That, on or about the twenty-ninth day of October, in the year of our Lord one thou-

sand seven hundred and eighteen, the General Assembly of the Colony of Rhode Island and Providence Plantations passed a resolution or order in the words following, that is to say:

"'*Ordered*, That the return of the commissioners to settle and run the boundary line between this colony and the Massachusetts, be accepted and placed to record in the colony book.'"

No. 16.

FURTHER PROCEEDINGS OF MASSACHUSETTS THEREON, 1719.

June 5, 1719.

The committee appointed by two orders of this court, (as entered June 18 and November 22, 1717,) to run the divisional line on Rhode Island, reported as follows, viz:

We, the subscribers, being of the committee appointed and impowered by the governments of the province of the Massachusetts bay and the colony of Rhode Island and Providence Plantations, for settling the east and west line between the said governments, by virtue of the agreement *of the agreement* of the major part of the said committee at their meeting at Rehoboth, on the 22d of October last past, at which time the said line was fully settled and agreed, and by them directed to be by us run. Having met at the stake of Nathaniel Woodward and Solomon Saffry, on Wrentham plain, the twelfth day of May, anno domini 1719, in the morning, and computed the course of the said agreed line, and found it to be by the compass by which we ran west two degrees twenty-four minutes south, according to the variation of nine degrees from the magnet. We proceeded to *run said line towards Patucket river*, and proved our course by *measuring the former lines run on either hand with Rhode Island and Connecticut.* We erected an heap of stones on the east bank of said Patucket river, (being very high on that side from the water,) and marked a pine at about fifteen perch distant from said brook eastward, on the north of the land called Bascomb's land, and from thence crossing the rivers, continued our course west as aforesaid through the country, marking divers trees and making many monuments of stone in said line, by which it may be easily found hereafter. We carried it, by estimation, two miles west of Allom pond, where we erected a large heap of stones east of a small river, called Five-mile river.

SAMUEL WILKINSON,
JONA. MUMFORD,
SAMUEL THAXTER,
JOHN CHANDLER.

Signed in presence of—
JOHN ARNOLD,
JAMES WARREN,
BANFIELD CAPRON.

Dated at said river, the 14th day of May, 1719.

In council, read and accepted. In the house of representatives, read and concurred.

Consented to. SAM'L SHUTE.

[Vol. 10, p. 360.]

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No. 17.

FURTHER PROCEEDINGS OF RHODE ISLAND THEREON, 1719.

"We, the subscribers, being of the committee appointed and impowered by the governments of the province of the Massachusetts Bay and the colony of Rhode Island and Providence Plantations, for the settling the east and west line between the said governments, by virtue of the agreement of the major part of the said committee, at their meeting at Rehoboth, on the twenty-second day of October last past, at which time the said line was fully settled and agreed, and by them directed to be *now by us now run*, having met at the stake of Nathaniel Woodward and Solomon Saffery, on Wrentham plain, the twelfth day of May, Annoq. Domini 1719, in the morning, and computed the course of the said agreed line, and found it to be, by the compass by which we run, to be west two degrees 24 minutes south, according to the variation of nine degrees from the magnet. We proceeded to run said line towards Pautucket river, and proved our *course* by measuring from the former lines run on either hand with Rhode Island and Connecticut; we erected a heap of stones on the east side of Pautucket river, (it being very high on that side from the water,) and marked a pine about fifteen perches distance from said bank, eastward, on the north side of the land called Balcom's land, and from thence crossing the river, continued our said course west, as aforesaid, through the country, marking divers trees and making many monuments of stones in said line, by which it may easily be found hereafter; we carried it, by estimation, two miles west of Allom pond, where we erected a large heap of stones, about four perch east of a small river called Five Mile river." Dated at said river, the 14th day of May, 1719.

SAMUEL WILKINSON.
JOHN MUMFORD.
SAMUEL THAXTER.
JOHN CHANDLER.

Signed in the presence of—
JAMES WELLING.
JOHN ARNOLD.
BANFIELD CAPEON.

The above return is approved by the Assembly. A true copy, extracted from the public records of the colony of Rhode Island.

Examined by THO. WARD, *Secretary*.

No. 18.

FURTHER PROCEEDINGS OF RHODE ISLAND THEREON, 1748, 1749, 1750, 1751.

Colony of Rhode Island and Providence Plantations, in general assembly, August, 1748.

Whereas the commissioners that were appointed to run the dividing line between the province of the Massachusetts bay and this colony, did not go through that work in every part thereof; whereupon, it is voted and enacted by the assembly, that Daniel Jencks, Henry Harris, and Stephen Hopkins, esqs., be, and they, or the major part of them, are hereby appoint-

ed commissioners to finish the running said line in manner following, viz: beginning at the monument in the northeast corner of the colony set up by the former commissioners where they left off, and from thence to run westerly to Connecticut line, agreeable to the charter of this colony, and that they meet the third Tuesday of October next, at twelve o'clock, at Maxes, in Attleborough, in order to begin said work.

And it is further voted and enacted, that his honor the governor write to his excellency the governor of the Massachusetts, informing him of this resolution, and to request that commissioners may be appointed on the part of the province, to join with the commissioners of the colony, in order to perform the business aforesaid.

Colony of Rhode Island and Providence Plantations, in general assembly, October, 1748.

It is voted and resolved, that Daniel Jenks, Henry Harris and Stephen Hopkins, esqrs., be, and they, or the major part of them, are hereby appointed commissioners to run the northern boundary line of the colony, from the stake set up by Nathaniel Woodward and Solomon Saffrey, in the year 1642, upon Wrentham plain, westerly, so as it may (at Connecticut river) be two miles and a half to the southward of a west line, and that said line be run clear through to said Connecticut river, according to an agreement made between the commissioners of the province of the Massachusetts bay and this colony, October the 22d, 1718, and that they meet, the first Monday in April next, at Pelatiah Mans, in Wrentham, in order to begin said work; and that his honor the governor write to his excellency the governor of Massachusetts bay, informing him of this resolution, and to request that commissioners be appointed on the part of that government to join with our commissioners to perform the business aforesaid.

Colony of Rhode Island and Providence Plantations, in general assembly, February, 1749.

Whereas Jonathan Randall, Thomas Lapham, and Richard Steere, esqrs., were, by the general assembly of the colony, at their session in Newport, the third Monday of August last, appointed a committee to run the northern boundary line of this colony according to the charter, &c.; and the gentlemen aforenamed having gone through that work, made the following report of their conduct:

To the honorable general assembly, sitting at South Kingston, in and for the colony of Rhode Island, on the last Tuesday of February, anno dom. 1749.

In pursuance of a commission to us given, for running the northern boundary line of this colony according to charter, &c., the commission bearing date September the 25th, 1749, we did seasonably inform the secretary of this colony that we had appointed to meet at Man's, in Wrentham, on the ninth day of October next following, when we would meet with a committee of the province, if any should be appointed, and proceed on the business aforementioned. And we did accordingly meet on the said ninth day of October, at said Man's, together with Henry Harris, esq., surveyor, and Israel Wilkinson and Christopher Waterman, chairmen, ready to pro-

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ceed on the business; but no committee from the province appearing, we postponed the business intended untill the thirtieth of said October, when we met again, and, no person appearing on the part of the province, we did then effect the business met on, concerning which we do report as followeth; That we, not being able to find any stake or other monument which we could imagine set up by Woodward and Saffrey, but knowing that the place thereof was described in the agreement mentioned in our commission by certain invariable marks, we did proceed as followeth, viz: We found a place where Charles river formed a large current southerly, which place is known to many by the name of Poppotatish pond, which we took to be the southernmost part of said river; from the southernmost part of which we measured three English miles south; which three English miles did terminate upon a plain in a township called Wrentham, about a quarter of a mile northeasterly from the dwelling-house of Thomas Harris, as also about a quarter of a mile southeasterly from the house of Robert Blake, where we marked a pine tree and erected a monument of stones, and found the same to be in latitude 42 deg. 8 min. north, which we made for the northeast bound of this colony. And we do further report, that from said tree we did proceed to run the northern boundary line of this colony on a west course, with a variation of eight degrees and a half, as the west variation from the magnetic needle. In the course of which running, we did mark many trees. Said line passing over the southernmost part of certain pond called Manshang pond, and did terminate about thirty rods eastward of a small pond called Grassy pond, at a black oak tree which we marked, and did erect a monument of stones about it; which tree we marked for the northwestern bounds of this colony, it being about twenty-two miles from said pine tree to said black oak.

Reported and humbly submitted by

JONATHAN RANDALL,
RICHARD STEERE,
THOMAS LAPHAM.

PROVIDENCE, *Jan.* 22, 1749.

And now, this assembly having taken the said report into consideration, do vote and resolve, and it is hereby voted and resolved, that the said report be accepted. Whereas this assembly, at their session in Newport, on the third Monday of August last, appointed commissioners to run the northern boundary line of this colony, with directions that if commissioners should not be appointed on the part of the province of the Massachusetts bay to join with them therein, they should proceed to run said line ex parte. As no commissioners were appointed by the province in season, the gentlemen appointed by the colony run said line ex parte, and made report thereof to this assembly, which hath been accepted. But nevertheless, upon advice from the province that they have appointed commissioners since our committee run the line as aforesaid, this assembly do vote and resolve, and it is hereby voted and resolved, that Jonathan Randall, Richard Steere, and Thomas Lapham, esqs., and Capt. Joseph Harrison, or the major part of them, be, and they are hereby, appointed commissioners, and fully impowered to join with the commissioners of the province of the Massachusetts bay at Pelatiah Man's, in Wrentham, the second Tuesday of April next, to run or perambulate the northern boundary line of this colony, according to charter, from the stake set up by Nathaniel Woodward

and Solomon Satfory, in the year 1642, pursuant to an agreement made between the commissioner of this colony and one of and for the province of the Massachusetts bay, January the 19th, in the year 1710–'11, with full power to appoint a surveyor or surveyors and chainmen. And it is also voted and resolved, that the gentlemen on the part of this colony be commissioned, for the end and purpose aforesaid, by his honor the governor.

Colony of Rhode Island and Providence Plantations, in general assembly, 1749, February.

His honor the governor is hereby requested to write to the government of the Massachusetts, and inform them this assembly have appointed a committee to meet and join the gentlemen appointed by the province for running the northern boundary line of the colony. His honor is also desired to request of the province, that all taxes assessed, or that shall be assessed, on persons inhabiting any lands to the southward of the line lately run by our commissioners be not collected or levied till the dividing line be run and mutually settled, his majesty having given such directions since the controversy arose between the two governments respecting their boundaries.

Colony of Rhode Island and Providence Plantations, in general assembly, August, 1749.

Whereas James Mussey, of Mendon, represented to this assembly, that at the session thereof in August and October, 1748, Daniel Jenks, Henry Harris, and Stephen Hopkins, esqs., were appointed commissioners; they, or the major part of them, to run the northern boundary line of this colony, from the stake set up by Nathaniel Woodward and Solomon Saffrey, in the year 1642, as by said acts may appear; but, as the said commissioners have hitherto neglected to perform said work, according to the intent of said acts, the aforesaid James Mussey, and others, who are now under the jurisdiction and government of the Province of the Massachusetts bay, (as they apprehend, wrongfully,) prayed that this assembly would, at their present session, be pleased to appoint three or more such gentlemen commissioners, to run the northern boundary line of this colony according to charter, who will undertake said business, and go through with it, according to an agreement made between the commissioners of this colony, and one of and for the said Province, January 19, 1710–'11, that they may be under the jurisdiction and government of this colony, as they think by charter they ought: On consideration whereof, it is voted and resolved that the aforesaid petition be, and hereby is, granted; and that Jonathan Randal, Thomas Lapham, and Richard Steere, esqs., be, and they, or the major part of them, are hereby constituted a committee to run the above-mentioned line; and they, also, are fully impowered to appoint a surveyor or surveyors, and chainmen, and to appoint time and place to begin said work; and that the secretary acquaint the Province of the Massachusetts bay of this act being passed, and to request them to appoint a committee to join with ours in running said line; and that, if none be appointed by said Province, that our commissioners proceed and run said line *ex parte*.

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No. 19.

PROCEEDINGS OF RHODE ISLAND OBJECTING TO THE LINE, 1751-'52, AND SUBSEQUENT PROCEEDINGS.

Original report of commissioners that run the north line in 1750.

COLONY OF RHODE ISLAND, &c.

To the honorable general assembly, to sit at Providence, in and for the said colony, the third Monday in March, 1750-'51.

Whereas this honorable assembly, at their session in Newport, in and for said colony, on the first Wednesday in May last past, did, by an act of said assembly, "constitute and appoint us, the subscribers, a comittee, and invest us with full power and authority to run and settle the northern boundary line of this colony, according to the royal charter granted by King Charles the second, in the year of our Lord 1663; and also to appoint times and places when and where to meet any commissioners that were or should be appointed on the part of the province of the Massachusetts bay, to appoint a surveyor or surveyors and chainmen, and, in general, to act and do all and every matter and thing whatever, for or concerning the aforesaid settlement of said line; and that in case no commissioners on the part of said province should and did, on the first Tuesday of October thence next after, or at any other time as should be agreed on, meet us, the said comittee, and agree to run and settle the said line as aforesaid; then, and in that case, we, or the major part of us, were thereby required to run and settle the said line ex parte, and to draw a plat of the land contained within said line, and with our report to present to this assembly."

As by said act, and his honor Gov. Green's commission for that purpose, reference thereto being had, will at large appear. By virtue whereof, we, the said committee, do report, that on the second Tuesday of October last past, we repaired to Lieut. Pelatiah Mann's, in Wrentham, where we expected to be met by a committee on the part of the province of Massachusetts bay, agreeable to the notification of our meeting there, given by Matthew Robinson, one of our committee, to Colonel John Chandler, who was then one of the committee for said province, and after waiting two daies for them, and no person appearing on the part of said province, we entered upon the duties of our said commission ex parte—we appointed a surveyor and chainmen, and before we attempted to run any line or lines, or make any survey, we thought it necessary to consult the charter of this colony, to find the said north boundary line whereby this government is thus bounded—"and on the north or northerly by the aforesd. south or southerly line of the Massachusetts colony or plantation"—whereby we were referred to the Massachusetts colony charter, w'ch we find thus expressed—"all that part of New England, in America, aforesaid, w'ch lies and extends between a great river there, commonly called Monomack, alias Merimack, and a certain other river there called Charles river, being in a bottom of a certain bay there, commonly called Massachusets, alias Mattachusetts, alias Massahesetts bay, and also all and singular those lands and hereditaments whatsoever, lying within the space of three English miles, on the south part of the said Charles river, or of any and every part thereof; and also all and singular the lands and hereditaments whatsoever lying and being within the space of three English miles to the southward of the southermost part of the said bay, called Massachusets, alias Mattachusets, alias

Massahesets bay ; and also all those lands and hereditaments whatsoever w'ch lye and be within the space of three English miles to the northward of the said river called Monomack, alias Merimack, or to the northward of any and every part thereof; and all lands and hereditaments whatsoever lying within the limits aforesaid, north and south in latitude, and in breadth and in length, and longitude, of and within all the breadth aforesaid throughout the main lands there, from the Atlantick and Western sea and ocean, on the east part, to the south sea, on the west part;" w'ch said charter having been vacated in 1684, we find that, by the new charter granted by King William and Queen Mary to the said province, there is granted "all that part of New England, in America, lying and extending from the great river, commonly called Monomack, alias Merimack, on the north part, and from three miles northward of the said river to the Atlantic or Western sea or ocean, on the south part; and all the lands and hereditaments whatsoever lying within the limits aforesaid, and extending as far as the outermost points or promontaries of land called Cape Cod and Cape Mallabar, north and south, and in latitude, breadth, and in length and longitude, of and within all the breadth and compass aforesaid, throughout the main land there, from the said Atlantick or Western sea and ocean, on the east part towards the South seas, or westward as far as our colonies of Rhode Island, Connecticut, and the Narragansett country." And upon comparing the words of the said charters together recited as aforesaid, it appeared that the first thing necessary was to find the *southermost part or parts of said Charles river*, in order whereto, we surveyed the same, beginning on the twelfth day of October, anno domini 1750, a little below the bridge called the New bridge, near Partridge's house, from whence the course of said river runs northward; and so proceded upwards so far as where Hopping brook and Second Bridge river meet and form said Charles river, being at the corner of Holte's-town and Bellingham; and having accurately planned the said survey, with the various turnings and windings of the said river, we found the southermost part thereof to be about four rods to the westward of the place where Mill brook falls into said river, which is thirty-six poles south, thirty degrees west, from the said bridge called New bridge; and from the said place or turning, where Mill brook falls into said river, we measured accurately with two wooden poles, three English miles due south, which terminated upon a shrubby plain in Wrentham, where we made a monument with a heap of stones, and set up a pine stake in said heap of stones; from whence we run a due west line to where it intersects a due north line from Pautucket falls, w'ch intersection is the northeast corner of this colony, and is about fifty rods northeasterly from Robert Blake's house in Wrentham, and at the said northeast corner we erected a monument with a heap of stones at a pitch pine tree; then proceeded to run a due west line, and in the running said course we marked divers trees, and made observations of particular and notable places to know said line by, as follows: said lines passed about sixty rods southward of Wrentham, west Precinct meeting-house, just touch'd the southermost part of Thompson's river, alias Second Bridge river, in Bellingham; passed about four feet to the northward of Uriah Thayer's barn, and eleven rods to the northward of William Thayer's house in Mendon, and between Thomas Taft's house and barn, and four rods southward of Ebenezer Burts' house, and crossed the farm of Nathan Rosen, near his house, about fifty rods eastward of Blackstone's river; then passed about fifteen rods north-

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ward of Samuel Read's barn; then to a remarkable pine tree, about one hundred rods to the southeast of David Draper's house in Uxbridge; and passed about fourteen rods southward of Isaac Martin's house in Douglass, and about ten rods northward of Jonathan Wheeler's house in Sutton; crossed Manchaug pond, where the brook runs out; then crossed an arm of the said pond, and passed about five rods northward of Leonard's in Douglass; then to the northwest corner, which is made by an intersection of the dividing line between Connecticut and this colony, which was continued to make said corner, where we erected a monument of stones near to a large white oak tree, which we marked.

During the whole of our proceedings as aforesaid, we made frequent observations of the variation of the compass, and made allowances accordingly; finding it generally to be about eight degrees westward.

And whereas we find, by the report made by the committee on the part of this colony that run the north line of said colony in the year 1749, that "they found a place where Charles river formed a crescent southerly, which place is known to many by the name of Popolatick pond, w'ch they took to be the southermost part of said river, from the southermost part whereof they measured three English miles south." We thought it necessary to inquire into the same, to see *if the said pond was any part of said* Charles river, and found, upon strict examination, that it could by no means be deemed any part thereof; for that there is a ridge or bank of sand and gravel that divides, between said pond and river, on the south side of said river, and when the stream of the river is low, *said bank is almost dry*, whereby the *said pond is distinct from any part of said river*, consequently the set off made by said committee was owing to their insufficient examination of the said pond; therefore their doings thereon were erroneous, and ought to be rejected.

And whereas it so hapened that we were obliged to make several adjournments before we could get through with said line, we took special care that notice was given by the secretary of this colony to the secretary of the province of the Massachusetts bay, of each and every of our said adjournments, except the last, and of the times and places of our meeting, that we might (if possible) have a committee on the part of the province to meet us, in order to a full and satisfactory settlement of said line between the said two governments; but as no committee from said province did at any time meet us, we proceeded and run said line throughout ex parte.

And, in obedience to said act of this honorable assembly, appointing us as aforesaid, we have hereto annexed a plat of the land contained within the aforesaid line. Which said line, run as aforesaid, we find, by comparing said charters together as aforesaid, to be the true north boundary line of this colony, dividing between it and the said province of the Massachusetts bay, upon the strictest examination we could make, and of right the lands on the south side thereof to belong to this colony.

All which is humbly submitted by

JONATHAN RANDALL,
RICHARD STEERE,
THOS. LAYHAM,
JOSEPH HARRISON,
M. ROBINSON.

PROVIDENCE, *March 18th*, 1750.

Colony of Rhode Island and Providence Plantations, in general assembly, March, 1750–'1.

It is voted and resolved, That George Wanton and Peter Bouvs, esqrs., together with Messrs. Joseph Harrison and Matthew Robinson, be, and they, or the major part of them, are hereby appointed a committee to make the draught of a letter respecting the northern boundary line of this colony, to the province of the Massachusetts bay, and present the same to this assembly at their next session.

Colony of Rhode Island and Providence Plantations, in general assembly, May, 1750.

Whereas, the northern boundary line of this colony hath never yet been settled according to the royal charter; and whereas, divers persons have made application to this assembly, and have set forth their just right to be under the jurisdiction of this government, as dwelling within the bounds thereof; and that the province of the Massachusetts bay have, and do unjustly exércise jurisdiction over them.

In order, therefore, to have said line rightly run and settled, and to prevent any further disputes thereupon between the said province and this colony, be it enacted by the general assembly, and by the authority thereof it is enacted, that, as soon as may be, the northern boundary line of this colony shall be run and settled, according to the royal charter granted by King Charles the Second, in the year of our Lord one thousand six hundred and sixty-three.

Be it also enacted, that, to the end the same may be perfected and completed, Jonathan Randal, Richard Steere, and Thomas Lapham, esqrs., and Capt. Joseph Harrison, and Mr. Matthew Robinson, are hereby appointed commissioners; and they, or the major part of them, are fully authorized and impowered to run and settle said line, according to the royal charter aforesaid, as near as may be; and that they the said commissioners be commissionated by his honor the Governor; and that the said commissioners, or the major part of them, are fully authorized and impowered to appoint time and places, when or where to meet any commissioners that are or shall be appointed on the part of said province. And the said Jonathan Randal, Richard Steere, Thomas Lapham, Joseph Harrison, and Matthew Robinson, or the major part of them, are hereby fully authorized and impowered to appoint a surveyor or surveyors, and chainmen, and in general to act and do all and every other matter and thing whatever, for or concerning the aforesaid settlement of s'd line; and that in case no commissioners on the part of said province shall and do, on the first Tuesday in October next, or at any other time, as shall be agreed on, meet the said commissioners for this colony, and agree to run and settle said line as aforesaid, then, and in that case, the said commissioners on the part of this colony, or the major part of them, shall, and are hereby required to proceed to the running and settling said line ex parte.

Be it also enacted, that the secretary of this colony send a copy of this act to the secretary of the province of the Massachusetts bay, withal desiring that the said province would suspend all assessments upon the people and inhabitants included within this colony by the line already run by Jonathan Randal, Thomas Lapham, and Richard Steere, esqrs., as by their

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return made in January, 1749, as was directed from them to the said province, relating to the eastern bondry of this colony.

Be it also enacted, that a plat of the land contained within said line, so to be run as aforesaid, be drawn up; and that the said commissioners on the part of this colony, or the major part of them, do make report to the general assembly of their doings in the premises, and present said plat at the same time; any laws, orders, customs, agreement or agreements, to the contrary hereof in any wise notwithstanding.

It is voted and resolved, that his honor the governor be, and he is hereby, desired to write, as soon as may be, unto the government of Connecticut, and request their assistance in settling the northern boundary line of this colony, and send with his letter a copy of this act past by this assembly, at their present session, for appointing commissioners to run and settle said boundary line.

Colony of Rhode Island and Providence Plantations, in general assembly, August, 1750.

This assembly having considered the subject-matter of the petitions of divers persons, inhabitants on the land claimed by this colony from the province of the Massachusetts bay, and their circumstances, do order, that the secretary of this colony write a letter to the secretary of said province, to be laid before the general court, representing that this assembly has had certain information that a considerable number of those persons, inhabiting on the said disputed land, are apprehended and prosecuted, at Worcester court of sessions, as rioters, occasioned by some indiscreet proceedings of some officers in the colony, which as they were done in the recess of this assembly, so they were begun and carried on without the knowledge and privity of this court; and that all these things have happened since the last letter to said province; therefore desire that, as the general court of said province has always, in all their letters to this colony since this dispute has subsisted, shown a disposition to have the said northern boundary line between us run and settled in the most amicable way possible, so, on our part, that it is our hearty desire every thing should be done to cultivate that good harmony and friendship that ought to subsist among neighbors, and that those poor people, who are settled on the said disputed land, may not be made a sacrifice to the resentment of that province, for being misled by any inconsiderate officers of this colony, since this assembly have reason to believe that the persons so prosecuted had no riotous intent to disturb the peace of the government; therefore this assembly desires yt the general court of said province would give orders to the judges of said court at Worcester to suspend any further prosecutions against said men till the said matter of said line shall be issued, or that the secretary write something to the like purpose, and to desire them also to suspend the levying the taxes from said people. Also his honor, the governor, is desired to write, by the first ship, to the agent of this colony in London, directing him to represent to his majesty the circumstances of said people, and the rigorous demands that are made on them for taxes, &c., in order to obtain from his majesty, in council, an order to said province to suspend the levying any more taxes, or using any violent measures with said people, till the said northern line shall be finally settled and established.

Colony of Rhode Island and Providence Plantations, in general assembly, June, 1751.

It is voted and resolved, that Stephen Hopkins, esq., Capt. Joseph Harrison and Mr. Matthew Robinson be, and they are hereby, appointed a committee to examine into all the circumstances and matters of fact relating to the northern boundary line of this colony, with full power to procure all such evidences, records and papers as may be thereunto necessary, *and to correspond and join with the colony of Connecticut*, or a committee by them appointed, if it be found most expedient in the prosecution of that affair; and, upon the whole, to prepare as complete a state of the case as they are able, and to lay the same before this assembly at their next session, or as soon as the same can conveniently be done.

Colony of Rhode Island and Providence Plantations, in general assembly, February, 1752.

Whereas the general assembly of this colony, at their session in June last, appointed Stephen Hopkins, esqr., Capt. Joseph Harrison, and Mr. Matthew Robinson, a committee to examine into all the circumstances and other matters of fact relating to the northern boundary line of this colony, with full power to procure all such evidences, records and papers as may be thereunto necessary, and to correspond and join with the colony of Connecticut, or a committee by them appointed (if it be found most expedient) in the prosecuting of that affair; and, upon the whole, to prepare as complete a state of the case as they are able, and to lay the same before the assembly as soon as can conveniently be done. And the *business remaining still imperpetrated*, this assembly do vote and resolve, and it is voted and resolved, that Thomas Arnold, esqr., be, and he is hereby, added to said committee, and that they, or any two of them, proceed on the affair, and complete it as soon as the same can be well done, and make report of their doings to this assembly at their next session.

Colony of Rhode Island, &c., in general assembly, September session, 1769.

Whereas Mr. Moses Brown, one of the deputies of the town of Providence, made the following motion at this assembly, viz:

Moses Brown moves to the honorable general assembly, that a committee be appointed to collect the papers respecting the northern line of this colony, and procure such evidences as they may think proper, in order to give the assembly the necessary information respecting said line, to enable them to form a judgment whether it be necessary to pursue the further examination and prosecution of the same; and as an inducement to this pursuit, he would observe, that a committee hath been formerly appointed, who run the line and made report, which now lies in the secretary's office. That, from the best information, there may be easily added to the colony a very considerable tract of land, the inhabitants whereof are very fond of being subjects of this government, which they verily think hath a legal right to govern them. That as they expected that this government long ago would stand by them, they openly declared for their interest in this colony. That Connecticut colony hath been heretofore invited to join with this colony in pursuing our claim upon the Massachusetts bay, which hath

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encroached very largely on this colony; and as the line of the colony of Connecticut begins where ours ends, that colony depends, and must depend, on our right settlement of that line to know their own boundary on the province. And surely no body will say but that our line next to the province ought to be settled, and it is high time it was done, that the inhabitants on those lands may be governed by their proper colony, and not be harrassed with taxes, &c., in a province that they have the strongest reason to think hath no right to govern them.

Wherefore the said Moses heartily moves, that this colony would assert their right to those lands, and make proper inquiry, and appoint a proper committee for that purpose; and that Connecticut may once more be invited to join and assist us in doing themselves and us right.

And the premises being duly considered, it is voted and resolved, that the Hon. Joseph Wanton, jun'r, esq., Jonathan Randall, esq., Mr. Moses Brown, Matthew Robinson, esq., and the attorney general, be, and they, or the major part of them, are hereby appointed a committee to examine into the subject matter of the aforegoing motion; and that they make report to this assembly at the next session.

Colony of Rhode Island, &c., in general assembly, October session, 1769.

Whereas Matthew Robinson, esq., Mr. Moses Brown, Joseph Wanton, jun'r, esq., and Oliver Arnold, esq., presented unto this assembly the following report, to wit:

To the honorable general assembly now sitting in South Kingstown:

Whereas at the last session of assembly at East Greenwich, we, together with Jonathan Randall, esq., were appointed a committee to examine into the state of the claim of this colony upon the province of the Massachusetts bay, respecting the north line of this colony, bordering on said province, and to make report thereof to this assembly; in obedience thereunto, we do report: That we have examined into said claim, and do find that there was a committee some years ago appointed to run said line, agreeable to our charter and that of the province of the Massachusetts bay, who in the year 1750, run said line accordingly, and made report thereof to the general assembly at Providence the same year, as by the plat and report thereof *to the general assembly at Providence the same year, as by the plat and report thereof* on file, with the state of our title or claim, in the secretary's office, and divers depositions to support the same, reference thereunto being had, may at large appear. That thereby it is clear, there is a tract of land near as large as one-fifth part of the land now possessed by this colony, which is unjustly under the jurisdiction and government of the province of the Massachusetts bay, and which of right appertains to this colony. That this colony had invited the colony of Connecticut into consultation with our committee, the true line of that colony beginning where ours ends. That *it was through inattention dropped*, and our line not yet being settled, theirs cannot be; wherefore it seems best to invite the colony of Connecticut, whose interest is connected with ours, to join a committee of this colony, to consult what is or shall be thought best to be done to settle said line truly; which seems necessary to be done, to stop the uneasiness of the

inhabitants on those lands, to secure them in peace, and to finish this dispute rightly as soon as may be.

This is submitted by

MATTHEW ROBINSON,
MOSES BROWN.
JOSEPH WANTON, JUN.,
OLIVER ARNOLD.

And the foregoing report being duly considered, it is voted and resolved, that the same be, and hereby is, accepted.

Colony of Rhode Island, &c., in general assembly, October, 1769.

It is voted and resolved, that Mr. Moses Brown have liberty to receive the plat of the northern boundary line of the colony, and the papers relative thereto, to take copies thereof—he promising to return the same to this assembly at the next session.

Colony of Rhode Island, &c., in general assembly, February session, 1770.

Whereas Mr. Moses Brown presented the following memorial to this assembly, to wit:

To the honorable the general assembly.

GENTLEMEN: Agreeable to the vote of this assembly at their last session, I received and have taken copies of the plats and reports respecting the northern boundary line of this colony. By which papers it appears that the colony had made application, in conjunction with the colony of Connecticut, to Mr. Partridge, then agent for both colonies, to pursue the settlement of the said line. And it appears that this colony, in the month of April, 1753, formed a petition to his majesty on this subject. Whether it was forwarded or not, or what further was done, does not appear by the papers I have yet been able to collect, but am informed by one of the commissioners, who conferred with the commissioners of the colony of Connecticut on this matter, in April, 1752, that the two colonies agreed to prosecute the case jointly; and as this government had expended a considerable sum in running the line, procuring evidence, and fitting the case to go home, Connecticut was to pursue it at home, until they had laid out the same sum that we had; after which, the expense, if any more should be necessary, was to be paid by both governments equally.

This being the case, and it appearing clear to me that the colony had a just right to a strip of four miles and fifty-six rods, the width of the colony being about twenty-two miles, I propose and desire this assembly to appoint some proper person or persons, to make application to the Governor or secretary of the colony of Connecticut, and procure information how the case was left, and, if they are unable to inform us, to write to the agent of this colony, who, about the time this matter was in agitation in England, lived with Mr. Partridge, and without doubt hath the papers respecting this matter that belong to the colony, and request him to examine the papers, and inform us of the circumstances this affair was under at the commencement of the late war; which I suppose was the occasion of its not being determined.

As Joseph Harrison, esq., one of this colony's committee to run the line,

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and Col. Lyman, who was one of the Connecticut committee, are both in London, and are acquainted with all the circumstances of this case, I apprehend a more favorable opportunity for the colony to get information in this matter could not happen.

I am obliged to the general assembly for their confidence in depositing the papers in my hands, and herewith return them.

I am, gentlemen, your most humble servant,

MOSES BROWN.

On consideration whereof, it is voted and resolved, That the said memorial be accepted. That Mr. Moses Brown be, and he is hereby, appointed to make the inquiry therein mentioned, and when he shall have obtained the best information he can procure, that he make report thereon to the general assembly.

Colony of Rhode Island, &c., in general assembly, May, 1771.

Whereas the secretary presented unto this assembly the following draught of a letter of agency to Henry Marchant, esq., to wit:

By the honorable Joseph Wanton, esq., governor, captain general and commander-in-chief of and over the English colony of Rhode Island and Providence Plantations, in New England, in America.

To all unto whom these presents shall come, greeting:

Whereas the governor and company of the colony aforesaid, in general assembly convened, at Newport, in the said colony, on the first Wednesday in this instant May, did pass an act, choosing and appointing Henry Marchant, of Newport aforesaid, esq., jointly with Joseph Sherwood, of the city of London, in the kingdom of Great Britain, esqr., agent and attorney for the said governor and company in Great Britain aforesaid, with full power and authority, with the said Joseph Sherwood, to act, transact, accomplish, and finish all matters and things whatsoever pending, or that may be pendent, in Great Britain, for or against the said governor and company, during his residence there, more especially to obtain the monies claimed by the said governor and company from the crown, for provisions, artillery, stores, &c., supplied for his majesty's service, for the expedition against Crown Point, in the year one thousand seven hundred and fifty-six, or upon any other account whatever; and requested me, for the purposes aforesaid, to make and execute a full and ample letter of agency and attorney to him, the said Henry Marchant, under my hand and the seal of the said colony.

Now, know ye, that I, the Governor above mentioned, by force and virtue of the afore-recited act, in behalf of the said Governor and company, have constituted, ordained, and appointed, and by these presents do constitute, ordain, and appoint him, the said Henry Marchant, during his residence in Great Britain, jointly with the said Joseph Sherwood, absolute and lawful agent and attorney for the said Governor and company in Great Britain, and in their names and stead to appear before his majesty in council, and either or both houses of Parliament, or any court or court judge or judges, minister or ministers of justice, as shall have jurisdiction, cognizance, or power to hear, adjudge, determine, sentence,

or upon any cause or causes, moved or pending, or to be moved or pendant in Great Britain, by, for, or against the said Governor and company, whether by memorial, petition, claim, demand, appeal, complaint, or otherwise; and there, in the name, stead, and behalf of the said Governor and company, jointly with the said Joseph Sherwood, to say, do, act, transact, accomplish, and finish, all and every matter and matters, thing and things, needful, requisite, and expedient, for obtaining right and justice, in behalf of the said Governor and company; more especially, by petition, memorial, or by any other lawful ways and means whatsoever, in their name and stead, and to their use, to obtain and receive all such sums of money, as the said Governor and company claim from the Crown, for provisions, artillery, stores, &c., supplied for his majesty's service, for the expedition against Crown Point, in the year of our Lord one thousand and seven hundred and fifty-six, or upon any other account whatsoever; and upon receipt of the same, or any part thereof, jointly with the said Joseph Sherwood, to give proper acquittances and lawful discharges.

And I do hereby, for the said Governor and company, covenant, promise, and engage, to ratify and confirm, and to hold for ratified and confirmed, all and whatsoever the said Henry Marchant, jointly with the said Joseph Sherwood, shall lawfully do, or cause to be done, in or about the premises, by virtue of these presents.

In testimony whereof I have hereunto set my hand, and the seal of the said colony, at Newport aforesaid, this day of May, in the eleventh year of the reign of his most sacred majesty George the Third, by the grace of God King of Great Britain, &c., Annoq. Dom., 1771.

By his honor's command.

Which being duly considered, it is voted and resolved, that the same be, and hereby is approved; that his honor the Governor be requested to cause a fair copy thereof to be made, and authenticate the same, under his hand and the colony seal, and that it be countersigned by the secretary.

State of Rhode Island and Providence Plantations, in general assembly, February, 1792.

Whereas the following report was made to this assembly, to wit:

To the general assembly of the State of Rhode Island and Providence Plantations, now holden at Providence.

Agreeably to appointment, we, your commissioners, have had several meetings with commissioners from the State of Massachusetts, and conferred on the subject of the boundary line between the two States, and entered into an agreement respecting the principles and mode of ascertaining the same, which we herewith present. In performance of which agreement, we proceeded, and ran out three miles south of Charles river, from the most southerly part or bend thereof, as appears by a draft or plat made from an actual survey of the said river, by Joseph Harrison, one of the commissioners from this State, in 1750, beginning at a place south 30° W. from Partridge's bridge, in Franklin, 36 poles, being four rods westward of a small stone bridge over Mill brook, at its junction with Charles river, which river appeared, to some of us, to be about twenty times the size of said brook. From this place, three miles south, terminated on Robert Blake's land, about sixteen rods southward from where

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the said Blake informed the commissioners the tonnel of 1750 stood, and which place he showed, the stone being made into a wall near it, and the pine tree cut down. The Massachusetts commissioners then surveyed, from an island in Whiting's pond, described in the map of Joseph Harrison aforesaid, a small brook running into the said pond till it came to *its head, as and for Charles river*, or the most southerly part of it, the said brook being known by the name of Fisher's brook, and terminates a little N. W. of Fisher's house, in Wrentham. This brook, being a dry season when surveyed, did not appear to run above ground in some places, though the ground was swampy and wet. From this termination, at a place where an old chesnut lies fallen, the Massachusetts commissioners propose to measure off three miles, to ascertain their southern boundary, to a place where a stone monument was erected, in 1790, by Wrentham and Attleborough, at a place called the angle tree, as the boundary between *the old colony of Plymouth and Massachusetts.* In order to ascertain the distance which this monument lies south of the monument or line, now held to by this State and Massachusetts, a west line was run 277 rods to the line extending north of Pawtucket falls, as run in 1746. From this intersection the distance appears to be 740 *rods* to the present line, as the same was measured by Simon Wilkinson, by direction of the commissioners. We then proceeded to Bullock's neck, and run N. E. from thence three miles, which passed by the monument erected by the commissioners of this State in 1746, about thirty-four rods. Thence we went to Rumstick cove, and measured off three miles N. E., which terminated eight rods short of the old monument; we then run from the most northeasterly part of Bristol harbor, as far as salt grass grew, three miles N. E., which fell short of the former monument about thirty-seven rods. In measuring down from Fall river, where it enters the bay, to find the 440 rods, mentioned in the decree of king and council as the spot to begin at, by going round a small bay, we came to a place where the neighbors say the commissioners of 1746 ran from, but the Massachusetts commissioners objected to this mode of measuring round the cove, or inlet, and claimed a straight line. It appeared, on measuring the three miles east of this station, that it terminated westward of the former bound; but the course leading into Wattupper pond, the exact distance was not ascertained. The east line from Nannaquaquet fell short about 127 rods, and that from Church's cove fell short 168 rods of the monument, now standing and shown by the neighbors, in the several measurements on these lines; no allowance was made for the crook or sag of the chain, though several lines ran through thick swamps.

At a meeting at Providence, and conferring on the subject, the commissioners of both States concluded to report a state of the business so far as we had proceeded, *not being able to agree upon any other proceeding in our appointment.*

In readiness to give such further information on the subject as we may be able, and the assembly may require, we respectfully submit our report.

JABEZ BOWEN.
MOSES BROWN.
WILLIAM BRADFORD.

PROVIDENCE, *February* 29, 1792.

No. 20.

Exhibit A, referred to, page 42.

The Commissioners of this Colony, appointed to renew the boundary line on the Colony of Rhode Island, gave in the following report, viz:

(Copy.)

PROVINCE OF MASSACHUSETTS BAY.

We, the subscribers, appointed and commissioned by, and on the part of said province, to *run and renew* the northern boundary line of the Colony of Rhode Island, where it borders on said province, from the station *set up and agreed upon by Nathaniel Woodward* and Solomon Saffrey, in the year 1642, and according to the charter of said colony, *and the agreement of the commissioners* entered into in behalf of said government, upon the 10th day of January, 1710–'11, met with the gentlemen appointed on the part of said colony, for that purpose, at the house of Mr. Peletiah Mann, in Wrentham, the tenth instant, and spent a part of that and the next day in debating on said affair, with those gentlemen, and produced said agreement, sundry plans, &c., and offered to run and renew with them, *the said line;* but they refused to go or join with us herein, but insisted upon our going with them to a certain place on Charles river, in Wrentham, from which they, a few months since, measured three miles south, and then extended a west line, with the variation to the west bounds of that colony, as they informed us, which line they claim as their north bounds, and is about four or five miles northward from Woodward's and Saffrey's station. But they produced *neither evidence, plan, agreement, record, or any writing* whatever, to support their claim. We then proceeded to *said station*, and although we did not find any monument of stones, or a stake, yet by a plan made by Woodward and Saffrey, and the courses, ponds, hills, and brooks therein decyphered, it appears very evident, where the station was; we were attended by a committee of Wrentham, and several elderly men, whom we examined on the spot, and have taken their evidence in writing, which confirms the same. On our return to Mr. Mann's, we found the gentlemen of Rhode Island still there, and who then desired (though they had refused before) that we would adjourn to a further day, in order to a second meeting, which we consented to, and have appointed the first Tuesday of October next, to meet at said Mann's, in case the respective governments consented thereto. We are humbly of opinion, that it is very necessary that the evidences referred to, be taken in perpetuam as soon as may be, the persons being elderly, and may be of consequence, in case we should not finally agree on running or renewing the line; all which is humbly submitted.

April 13th, 1750.

Signed JOHN CHANDLER,
JAMES OTIS,
JOSEPH HEATH.

In council, read and accepted.

Ordered, that the commissioners in behalf of this province, meet with those of the colony of Rhode Island, at the time and place within men-

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tioned, and that the said commissioners cause the affidavits referred to in the report, as also such others as may give light in the affair, to be taken in perpetuam sie memoriam accordingly.

In council, read and concurred.

Concented to by the Lieutenant Governor.

A true copy from the records (page 167) and among the proceedings of the General Court of April 13th, 1750.

Attest: A. BRADFORD,

Sec'y of Commonwealth of Massachusetts.

Exhibit B, referred to, page 48.

[Separate report made by the commissioners on the part of Massachusetts, made to the Legislature of the State, February 21, 1792, viz :]

(Copy.)

The commissioners appointed by an act of the Legislature of the Commonwealth of Massachusetts, passed on the 8th day of March, 1791, for ascertaining the boundary line between this Commonwealth and the State of Rhode Island, have carefully attended the services assigned them, and take leave to report their doings.

On the 15th day of August last, we, by agreement, met the commissioners from the State of Rhode Island, at Wrentham, in this Commonwealth, and after exchanging the powers under which we severally acted, we proceeded to discuss the subject that gave rise to our appointments; in the course of which, it appeared that the State of Rhode Island, from their construction of this expression, "three miles south of Charles river, or of any and every part thereof," in the ancient charter of the colony of Massachusetts, and as the south bounds of the same, claim near three miles north upon this commonwealth, than the present line of jurisdiction between the two governments; the commissioners of the commonwealth, from the circumstance that the branch, now called Charles river, and from which the claim of the State of Rhode Island would run three miles south to ascertain the south boundary of the commonwealth, could not have been known by the name of Charles at the time of granting the Massachusetts charter in 1621; and from this line being ascertained and fixed at a different place by commissioners chosen by the colonies of Massachusetts and New Plymouth in 1667, at a time when the intentions of the grantor and grantees must have been known, are convinced that the claim of the State of Rhode Island is ill founded; but to complete, if possible, the intentions of our appointments, and that the dispute between the governments might be amicably adjusted, we united with the commissioners of the State of Rhode Island, in the agreement as in number one.

In examining and comparing the charter of the two governments, granted by the successive Kings of England, under which both claim, it appears that the first charter to the colony of Massachusetts was granted by King James the first, in 1621, and resigned a certain territory to that colony, bounded by an east and west line, which was to be three miles south of Charles river, or of any and every part thereof; "the same expression is also used for limiting a part of the bounds of the *old colony of Plymouth*, and was probably copied from their charter into the Massachusetts, to prevent an interference of claims; the same line is adopted in the charter from

King Charles the second, to the Colony of R. Island, granted in 1663, and is their northern boundary. The erection of a third government, referring to the same bounds, seems to have rendered it necessary for Plymouth and Massachusetts to ascertain their bounds; accordingly those two Governments, in 1664, appointed commissioners to survey the most southern branch of the Charles river, and to lay off from thence three miles due south as their boundary line by charter; this was accordingly done, and they fixed upon a large tree, then known and since noted by the name of the Angle tree, as the north line of Plymouth, and the south line of Massachusetts. The knowledge and name of the place is preserved, and the Commonwealth, in order to perpetuate it, have erected in the place of the tree, the remains of which are now to be seen, an handsome stone monument, which bears the name of Angle tree, and is explained by suitable inscriptions on the different faces of it. This the commissioners apprehend to have been the true and original boundary, and is three miles south of the most southerly waters of Charles river. It does not appear that the Colony of Rhode Island ever expressed any dissatisfaction respecting their northern boundary until 1716, or thereabouts, which finally ended in the appointment of commissioners by both Governments in 1718, who fixed a new station about two miles north of the Angle tree, and which was called, after the surveyors, "Woodward and Saffrey's Station." This place is well known, 'tho' no records of it have been preserved, or the proceedings of the commissioners ratified by either Government; yet the line drawn from it has been practised upon as the line of jurisdiction between the governments from that to the present time. This Commonwealth then lost two miles in width along the northern line of Rhode Island, and seems to have acquiesced in the agreement upon principles of generosity. The ancient charter of New Plymouth and Rhode Island were irregularly bounded on one another; the former, as was supposed, by the shores of the Narraganset bay, the latter by three miles east of those shores; this interference of boundary, however, appears not to have given any discontent, as the date of the charter of New Plymouth was prior to that of Rhode Island, and the peaceful jurisdiction to the shores of Narraganset bay, was enjoyed not only by the old Colony of Plymouth, but by Massachusetts, (after these two colonies were united by the charter of 1691,) down to the year 1730, at which time the Colony of R. Island passed an act claiming the jurisdiction of the territory on their eastern boundary, granted to them, by charter, in this act and in the subsequent dispute and determination of the subject, not a claim, nor the intimation of one, but that their northern boundary was satisfactory, as established in 1718. In 1740, the King of Great Britain, who was then the sovereign of these States, appointed commissioners to hear and determine the dispute then existing between the Governments, who, after hearing the parties, came to the determination as in number 2, by which the extent of Rhode Island charter was allowed, and the jurisdiction of Massachusetts, cut off from the shores of Narraganset bay. This judgment, unexpected by either party, was disapproved of by both, and they accordingly appealed to the King in council, where, however, it was ratified in 1746. As soon as this information was received by the Colony of Rhode Island, and they proceeded to appoint their commissioners, and assigned the time of meeting for them to begin running the lines that had thus been determined, and they gave information thereof to the governor of this their province; but the Legislature not being convened

untill some time after the period affixed for the Rhode Island commissioners to begin the survey, they thought it unnecessary for them to join in the commission. These lines we perambulated in company with the commissioners of the State of Rhode Island, and excepting one or two stations between Providence and Bristol, which were well ascertained, we found that they had encroached upon this Commonwealth from one-quarter to three-quarters of a mile in width. We were attended by suitable persons, approved by both parties, for making the necessary observations and surveys. Here, probably, all further dispute relative to boundary lines with the Colony of Rhode Island would have forever ended, had it not have been for the rage of political parties at this time within that colony, one of which, to effect a decided majority, was extremely anxious for an extension of northern jurisdiction. Influenced by these motives, and perhaps in some measure by their late success; they, in 1740, brought forward a new claim for extending their northern boundary beyond the line established in 1718, and to support that claim, they appointed commissioners in 1750, to examine what is now called Charles river, and from the most southern part of the same, to survey off three miles as the boundary of Massachusetts, agreeably to their charter. A plan of this survey was laid before us, and copy of it herewith presented. We have inserted our own survey of what we conceive to be the most southern part of Charles river, as intended by the charter, above Whiting's pond, and the position of the Angle tree. It may not be unnecessary to observe, that at the southern head of what we call Charles river, is a place known by a large chesnut tree; thence the stream descends to Whiting's pond, where it forms a considerable lake, and afterwards resuming its proper shape, (and now known by the name of Mill river or brooke,) pursues its course in a northerly direction till it joins that stream which is known by the name of Charles river, the confluence of the two streams six miles more northerly than the chesnut tree at the southern head of Charles; after perambulating the bounds now practised upon, and ascertaining their deviations from the stations to which they ought to have been fixed, and learning the principles upon which Rhode Island supports her claims, and the extent of them, we adjourned to the fifth day of December last, then to meet at Providence, in the State of Rhode Island, at which time and place we met with the commissioners from Rhode Island, and after fully discussing the several claims, and endeavoring to conciliate the difference between the two States, agreeably to the powers of our commission, we were convinced that no agreement can be made at present with them, unless we yield a valuable territory, *to which they have no claim, and which we hold not* only by repeated charters, but by the agreement of the State of Rhode Island in 1718; and so far from its appearing that encroachments have been made by this Commonwealth on that State, that the contrary is notoriously the fact.

(Signed,) WALTER SPOONER,
ELISHA MAY,
DAVID COBB."

BOSTON, *Feb'y* 21, 1792.

SUPREME COURT OF THE UNITED STATES.

EX PARTE IN THE MATTER OF TURNER DIXON

vs.

JOSEPH H. MILLER.

Rule on Judges of the Circuit Court U. S. for the District of Columbia, to show cause why a mandamus, &c.

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a.

Ex parte: In the matter of—

TURNER DIXON,
vs.
JOSEPH H. MILLER.

Mr. Davis, of counsel for the petitioner, having filed and read in open court the following petition in writing, viz:

To the honorable the justices of the Supreme Court of the United States.

The petition of Turner Dixon respectfully shews, that on the 27 day of April, 1843, a capias ad respondendum was issued from the office of the clerk of the circuit court of the District of Columbia, for the county of Alexandria, at the suit of Turner Dixon against William Deane, Aaron D. Harmon, and Joseph H. Miller, to answer Turner Dixon of a plea of debt, which writ was duly returned executed on the 11th of May, 1843.

At the August rules following, your petitioner filed his declaration in debt on a note of the said Deane, Harmon and Miller for $1,600, and dated 23 April, 1839; and at the same rules, according to the course of the court, the defendants being arrested and not appearing, the common order was entered against them, (Rec. p. 3,) which, at the following September rules was duly confirmed; and not having been set aside at the following October term, and leave not having been obtained to appear and plead, the said confirmed order passed by operation of the statute into a final judgment, on the last day of the said October term, being the 4th day of December, 1843, for the full debt in the declaration, and costs.

And thereupon a fieri facias was duly issued on the 5th of December, against all the defendants, certain credits having been first endorsed thereon of payments made before suit, but which not having been pleaded, the defendants were by no means legally entitled to. The writ was placed in the marshal's hands, who proceeded to execute the same by levying it on the goods and chattels of Joseph H. Miller; but the said Miller obtained an injunction to arrest proceedings under the said writ till the further order of the circuit court, and the marshal returned the writ endorsed "Proceedings stayed by injunction."

The grounds for the injunction will fully appear on the face of the bill and proceedings, a transcript whereof is herewith exhibited; and at the following May term of the circuit court, their insufficiency being made to appear to the said court, the injunction was on motion dissolved, and the bill dismissed for want of equity. See Exh. B.

Not satisfied with the injunction, said Miller obtained, at the said May term, on the 7 of May, 1844, a rule on the petitioner to shew cause why the judgment in debt, confirmed at the October term, 1843, should not be opened, and he permitted to file his pleas; but the rule was discharged with costs on the 11th of May, after elaborate argument, on the ground that the judgment was final by the terms of the act at the end of the former term, and beyond the control of the court.

But the court intimating the opinion that though the judgment was beyond their power, they might quash the execution, notice of motion was given to your petitioner to open the judgment, or in case of failure to quash the execution aforesaid; which notice was served 16 May, 1844. In support of the said motion the sole evidence offered was the affidavit of Jos. H. Miller, appearing on the Record p. 6 & 7, stating his erroneous impression as to the return day of the capias, as an excuse for having failed to appear and plead at the proper time, his certificate of discharge under the Bankrupt law, the same allegation having been substantially made in the injunction bill filed by him. The certificate referred to was produced in evidence to the court, and appears on the Record p. 8, and bears date on the 19 day of October, 1842, thus shewing him to have been discharged long before the capias was sued out against him. This certificate, and the affidavit above stated, constituted the sole evidence on which the court heard the motions in question.

The said last mentioned motions came on to be heard on the 1st day of June, 1844, when the circuit court, after full argument, adhered to their former opinion, and refused to open the judgment, but made an order reciting the production of an affidavit by Joseph H. Miller, and of his certificate of discharge, dated 19 October, 1842, and ordering that no execution issued, or to be issued, on the above judgment, should be served and levied on the person or property of Joseph H. Miller.

Your orator avers, that the said order is unprecedented and illegal; that it admits the validity of a judgment, while it prevents your petitioner from obtaining its fruits; that it violates the act of Congress requiring the certificate to be pleaded, and permits it to bar a claim which could not be proved under the said act.

Your petitioner further avers, that he has received no portion of the money due by reason of the said judgment, and that the other defendants are utterly insolvent, or one of them a certificated bankrupt.

He therefore moves your honorable court to grant a rule on the hon. William Cranch, the hon. James S. Morsell, and the hon. Buckner Thruston, judges of the circuit court for the District of Columbia, to shew cause why a mandamus should not issue from this court, commanding them to permit an execution to be issued on the said judgment, and levied on the goods and chattels, or body of the said Joseph H. Miller.

JOS. BRADLEY,
H. W. DAVIS,
Counsel for petitioner.

ALEXANDRIA COUNTY, *to wit:*

This day personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, Turner Dixon, petitioner within mentioned, and made oath in due form of law, that the facts and charges within stated, when averred as of his own knowledge, are true, and all others he believes to be true.

Sworn before the subscriber this 20th day of February, 1845.

CHA. McKNIGHT, *J. P.*

moved the court for a rule to be served on the judges of the circuit court of the United States for the District of Columbia, commanding them to be and appear before this court, either in person or by an attorney of this court, on the first day of the next term thereof, to wit, on the 1st Monday of December, anno domini 1845, to show cause, if any they have, why a mandamus should not be awarded by this court, commanding the said judges to permit an execution to be issued on the said judgment in the above entitled cause, and to be levied on the goods and chattels, or body of the said Joseph H. Miller, as prayed for; which motion was opposed by Messrs. Smith and Coxe. On consideration whereof, and of the arguments of counsel thereupon had, as well in support of as against the said motion, it is now here considered and ordered by this court, that the rule prayed for be, and the same is hereby, granted, returnable to the first day of the next term of this court, to wit, on the first Monday of December, in the year of our Lord one thousand eight hundred and forty-five.

Per Mr. Ch. Jus. TANEY.
3d March, 1845.

B.

Ex parte in the matter of TURNER DIXON,
vs.
JOSEPH H. MILLER. } Return of judges.

To the honorable the chief justice and the associate justices of the Supreme Court of the United States, the undersigned, judges of the circuit court of the District of Columbia, respectfully represent:

That they have been served with a rule from your honorable court to appear before your honors on the first Monday in December, 1845, to show cause why a mandamus should not be awarded by this court, commanding the judges of the said circuit court to permit an execution to be issued on the judgment mentioned in the petition upon which the said rule was granted; and they now appear before your honors for that purpose: and, in showing cause, beg leave respectfully to present to your honors a transcript of the record of the said circuit court in the suit at law of the petitioner, Turner Dixon, against the said Dean, Harmon and Miller. Also a transcript of a suit in equity, by the said Joseph H. Miller, against the said Turner Dixon. Also the transcript of the record of the proceedings of the said circuit court, upon a notice and motion to open the judgment in the case of Dixon against Dean, Harmon and Miller, or to quash the execution issued thereon.

In the transcript of the record of that case, in which the said judgment was rendered, it will be seen that the judgment was against three defendants, viz, Dean, Harmon, and Miller; that the declaration was filed, and judgment by default, for want of appearance, rendered *nisi* at the August rules, confirmed at the September rules, and made absolute on the 4th of December, 1843. (*Record p.* 1, 2, 3.) Upon which judgment a *fieri facias* was issued at the October term 1843, to wit, on the 5th of December, 1843; that, on the 15th of December, 1843, this

execution was injoined until the further order of the court. (*Record p.* 5.)

That the grounds for an injunction, stated in the bill, were, that the *capias ad respondendum* was served upon the complainant, Miller, on the 11th of May, 1843, while the circuit court was in session in Alexandria county, and that the natural and obvious understanding of the said writ, when read to him, was, that he should appear and answer at the following October term—that being the "*next court*" after the service of the writ; that the judgment was obtained *in the office*, without his knowledge; and that he has, therefore, been taken by surprise.

He then sets forth the proceedings, and his discharge under the bankrupt law, on the 19th of October, 1842, which he says would have been pleaded, if he had not been prevented from pleading it by surprise, but that he is advised that such plea was unnecessary.

At the April rules, 1844, the defendant, Dixon, filed his answer, in which he says that the *capias* referred to in the bill was issued on the 27th of April, 1843, before the commencement of the May term, and that the clear and obvious meaning of the writ was, that the defendants should appear at the next court after its date, viz, at May term, 1843. That, having been made returnable to the *next* court, generally, the return day thereof was the last day of the term, and that the marshal has power to execute the same at any time before the return day thereof. That he is, moreover, advised, that such has been the uniform practice of the marshal since the organization of the court. That if the complainant has mistaken the mandate of the writ, it has resulted from his own negligence, against which he cannot seek relief in this court.

The defendant avers, that a plea in bar of the action is the only method pointed out by the bankrupt act to render the certificate of discharge available, and that the judgment is final and conclusive against him. That the first clause of the first section of the bankrupt law (generally known as the voluntary clause) is unconstitutional and void, and the complainant, having received his certificate and discharge, upon his own application under that clause, it is no bar to the action.

The defendant having thus filed his answer, gave the complainant notice that, on the sixth day of May term, 1844, or as soon thereafter as counsel could be heard, he would move for a dissolution of the injunction.

Before the court gave any judgment upon that motion, one of the defendants at law, Joseph H. Miller, at May term, 1844, upon notice given to the plaintiff Dixon, moved the court to open the judgment, which had become absolute at the preceding term, against Dean, Harmon, and Miller, to enable Miller to plead his certificate of bankruptcy in bar of the debt upon which the judgment was founded; and that if the court should refuse to open the judgment, and give him leave to plead his discharge, or should deem such plea unnecessary, he should move the court to quash the execution issued upon that judgment.

This motion was supported by Mr. Miller's affidavit, in which he states that the writ (of *capias ad respondendum*) was not served on him until almost the middle of the session of the circuit court, at May term

1843, and that, from the purport of the said writ, and the late day at which it was served on him, he was fully of the impression that the same was not returnable until October term following; that, being under this impression, he failed to make any defence to the said suit, or to enter his appearance therein, as he certainly desired and intended to do at the proper time. That a judgment in the office of the court has been obtained, in consequence of the said writ being returned six months earlier than he believed it could legally be; that he has thus been taken by surprise, and prevented thereby from availing himself of a valid and sufficient defence in law to the said action; that he has been guilty of no negligence, wilfully, in failing to make his defence at an earlier period, and that his motion is not made for delay. That he had been discharged under the bankrupt law before the commencement of the said action, and intended to plead his discharge, but was prevented by surprise, and a misunderstanding of the said writ.

Upon the hearing of this motion, the court refused to open the judgment to let in one of the three defendants to make his defence, because, the cause of action being joint against *three*, the judgment was necessarily *joint*, and could not be opened as to one without opening it as to all, and the plaintiff had a right to his judgment against the solvent defendant.

The court also refused to quash the execution because it was a joint execution, and the plaintiff had a right to it, as against such of the defendants as were not discharged under the bankrupt law.

But the court was of opinion that they had a right and power, in their discretion, upon good cause shown, to direct the marshal not to serve their joint execution upon any one of the joint defendants who showed such good cause.

The court was also of opinion, that the facts and circumstances stated in the proceedings contained in the transcripts of the records now presented to this honorable court, and especially the discharge of the defendant Miller under the bankrupt act, did constitute such good cause for the exercise of their discretion, in the manner in which they exercised it, in making the order of which the said Dixon complains; which order was passed unanimously in a full court, and is in the following words:

"The defendant, Joseph H. Miller, having filed an affidavit, and produced to the court here his discharge and certificate under the bankrupt law of the 19th of August, 1841, it is thereupon, and upon his motion, ordered by the court, this first day of June, 1844, that no execution heretofore issued, or hereafter to be issued, upon the judgment in this case rendered, shall be served or levied upon the body or property of the said Joseph H. Miller."

The circuit court has never refused to issue an execution upon the said judgment, in the case of Dixon vs. Dean, Harmon and Miller. They have only stayed the execution, as against Miller and against Harmon, two of the defendants, upon a motion in the nature of a writ of *audita querela*, on the return of the execution, which they believed they had a right to do.

Admitting the general rule to be, that if the bankrupt would avail himself of his discharge, he must plead it whenever he has an opportunity to plead it, yet the rule is as well established, that if he has had no opportunity to plead it, he may avail himself of it, upon the return of the execution, by a writ of *audita querela*, or by a motion in the nature of such a writ. The bankrupt who is prevented, by accident or surprise, from pleading his discharge, has no more opportunity to plead it than the bankrupt who does not obtain his discharge until after judgment has been rendered against him; and is equally entitled to the benefit of the rule.

In the present case the judgment was rendered by default of appearance and by surprise, as to the defendant Miller, in consequence of his natural mistake in supposing the writ to be returnable to the next court after its service. There can be no reason to doubt of the truth of his affidavit, that he was taken by surprise, for he could have no motive to suffer judgment to be rendered against him by default.

If it had been a separate judgment against Miller alone, the court might, perhaps, have set it aside; but as it was a joint judgment, the court could not set it aside for a cause applicable only to one of the defendants.

In support of the opinion, that the court had authority to grant relief to the defendant Miller, upon a motion in the nature of a writ of *audita querela*, we beg leave to refer to the following cases:

Evans vs. Gill, 1 *b. a. d p.* 52, where, upon a rule to show cause why a regular judgment should not be set aside on an affidavit of merits, *upon the ground that the defendant meant to plead his bankruptcy*, it was contended by the plaintiff's counsel, that "this is not more a plea of merits, than infancy, coverture, usury, or the statute of limitations; and in those cases the court has refused similar applications. Bankruptcy is not a meritorious, but a mere legal defence against a conscientious claim. It is not such a discharge, but that a previous debt may be a consideration for a new promise; as in the case of infancy, and the statute of limitations."

"*Sed per curiam:* Supposing this to be a fair bankruptcy, we should permit the party to make use of it as a defence. When he has given up all his effects, it would be cruel to charge him from a neglect in the attorney; the necessary consequence of which would be that he must go to gaol. In all cases of fair bankruptcy, we think, the party should have an opportunity of taking advantage of it. *Rule absolute on payment of costs.*"

Lister v. Mundell, 1 *b. and p.* 427, in which the court decided that, "if a *fi. fa.*, issued against a bankrupt before certificate obtained, be not executed until *after*, the court will order the goods to be restored, even though he has not pleaded the certificate according to 5 Geo. 2, ch. 30, § 7; for the court will always give that relief in a summary way, which might be obtained by *audita querela*."

And in 3 *Bl. Com.*, 406, it is said, "that where the defendant hath good matter to plead, but hath had no opportunity of pleading it, either at the beginning of the suit, or *puis darreign continuance*, which, as

was shown in a former chapter, must always be before judgment, an *audita querela* lies, in the nature of a bill in equity, to be relieved against the oppression of the plaintiff." "But the indulgence now shewn by the courts in granting a summary relief upon motion, in cases of such evident oppression, has almost rendered useless the writ of *audita querela*, and driven it quite out of practice."

In the case of *Davis v. Shapley*, 1 *Barn. & Adolphus*, *p.* 54, the debt was due before the bankruptcy. The plaintiff brought his action in November, 1829, for goods sold; the commission of bankruptcy issued in December, 1829. The cause was tried, and verdict rendered for the plaintiff at the Lent assizes, 1830. The defendant obtained his certificate of discharge on the 29th of April, 1830. Judgment was rendered against him on the 14th of May, 1830, upon which a *fieri facias* was issued, and, on the 20th of May, 1830, levied on the goods of the bankrupt acquired after his discharge. A rule nisi was obtained for setting aside the *fieri facias*, and for refunding the money, which, upon argument, was made absolute; showing that, if the bankrupt has had no opportunity to plead his discharge, he may be relieved on motion.

So in the case of *Baker v. the Judges of Ulster Common Pleas*, 4 *Johnson*, 191. The defendant was discharged as an insolvent on the same day that a judgment was rendered against him. Being taken upon a *ca. sa*, issued on that judgment, the court discharged him, and the supreme court of N. Y. said he might have sought relief by *audita querela;* but it is usual to grant the same relief on motion.

In *Delancy v. Brownell*, 4 *Johns.*, 136, it was decided that the courts of common pleas may set aside a regular judgment by default, where there has been any fraud or surprise, especially in a bail-bond suit. A rule was moved for, on the court of common pleas, to show cause why a *mandamus* should not issue, commanding them to vacate a rule entered in that court, setting aside a judgment and execution in an action on a bail-bond.

The judgment was final in June, 1808; in July the *fieri facias* was issued. In October the defendant moved to set aside the judgment and execution, upon terms, on affidavit. Neither the principal nor the bail knew that the judgment had been entered on the bail-bond until the execution; the defendant had no notice of the execution of the writ of inquiry.

There were counter affidavits, denying some of the facts stated in the defendant's affidavit.

The court below ordered the judgment and execution to be set aside, on payment of costs, and filing special bail in the original action.

KENT, Ch. J., said that the judgment was set aside on the ground of *surprise;* "and that the affidavits conclusively establish that fact, as respects the bail." And he said further: "It is, however, contended, that the court of common pleas had no power to set aside a regular judgment by default. It would be cause of regret if no such power existed; for, without it, there would often be a manifest failure of justice. But, independent of the equitable jurisdiction in these suits upon bail-bonds,

the common pleas have such power; they cannot, in general, set aside a verdict, except for irregularity, but that restriction does not apply to judgments by default. *Bayley v. Boone*, *Str.* 392, and in *Burrow*, 571, Lord MANSFIELD said, that there was no precedent or authority to the contrary of their having such a power, and that it was a power necessary to the exercise of judicature, and very different from the case of setting aside *verdicts;*" and the court then unanimously declared that an inferior court had power to set aside a regular interlocutory judgment in order to let in the merits. The case, then, before the court, was of an interlocutory judgment; but there is no distinction taken, nor any ground for a distinction, between a judgment by default in a case sounding in damages, and a judgment by default in an action of debt. The only restriction imposed upon an inferior court, on this subject, respects the verdicts of juries."

The motion for a mandamus was denied.

The case of *Selfridge v. Lithgow*, 2 *Mass.* 374, was an action against a sheriff for not serving an execution upon a certificated bankrupt, who had suffered judgment to go against him by default after obtaining his certificate, which he might have pleaded, but did not plead. The sheriff returned the execution unsatisfied; and further certified the bankruptcy of Burton, (the debtor in the execution,) and the certificate of his discharge. Upon a case stated, the court ordered judgment for *one cent damages, and a quarter of a cent costs.*

In the case of *Hatten v. Speyer*, 1 *Johns.* 41, Mr. Justice Livingston, in delivering the opinion of the court, said, a bankrupt being compelled to surrender all his property for the benefit of his creditors, and having done so fairly, is entitled (and such is one object of the law) to be protected against the claims of all who were creditors before the act of bankruptcy. He is, in the terms of the act, discharged "from all debts due by him at the time he became bankrupt, and from all which were or might have been proved under the commission."

Upon a case stated judgment was entered for the defendant, although he did not plead his discharge; which was obtained in October, 1800, and the cause was not tried until the 25th of June, 1804.

Although Lord ELLENBOROUGH, in *Gowland v. Warren*, 1 *Camp.* 363, at *nisi prius*, decided that the certificate could not be given in evidence upon the trial of the general issue in *assumpsit*, yet that question does not arise here.

And although Lord Chancellor ELDON, in *Lingard v. Hibbertson and Mather*, 1 *Rose's cases in bankruptcy*, 459, decided that if the party, *through negligence*, has not availed himself of his defence, it is no ground of relief in equity; yet the undersigned judges were of opinion, that there is a difference between negligence and mistake, and that the case before them was a case of mistake, as to the practice which authorized the marshal to serve process during the session of the court, returnable to the same term in which it is served, whereby a judgment by default was obtained against him by surprise; by reason whereof he had not an opportunity to plead his discharge.

Upon these authorities, and for these reasons, the undersigned most respectfully contend, that this is not a case in which this court, in the exercise of its discretion, will issue the mandamus applied for.

W. CRANCH,
JAS. S. MORSELL.

28 *November*, 1845.

District of Columbia, to wit:

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, the 4th day of December, 1843.

TURNER DIXON, plaintiff,
vs.
DEAN, HARMON & MILLER, def'ts. } In debt.

Be it remembered, that heretofore, to wit, at the rules held in the clerk's office of the said court, for the month of August, 1843, came the plaintiff, by Messrs. Neale & Brent, his attorneys, and filed there a certain bill against the said defendants, which is in the words following:

Nar.

Alexandria county, to wit:

Turner Dixon complains of William Dean, Aaron D. Harmon, and Joseph H. Miller, (lately trading under the firm of Dean, Harmon & Miller,) being in custody, &c., of a plea, that they render to him, the plaintiff, the sum of sixteen hundred dollars, which they owe to, and unjustly detain from, him; for that, whereas, the said defendants, under the style and firm aforesaid, on the twenty-third of April, eighteen hundred and thirty-nine, at Alexandria, to wit, in the county aforesaid, made their note in writing, the date whereof is the day and year last mentioned; by which note, the defendants, under the style and firm aforesaid, promised to pay, six months after the date thereof, to Turner Dixon, or order, the sum of sixteen hundred dollars for value received. By means whereof, and by force of the statute in such case made and provided, the said defendants then and there became liable to pay to the said Turner Dixon the said sum of money in the said note specified; and although the said sum of money, in the said note specified, hath, according to the tenor and effect thereof, been long since due and payable, the said defendants have not yet paid the same, or hath either of them, or any part thereof to said plaintiff. Thereby an action hath accrued to the said plaintiff, to demand and have, of and from the said defendants, the said sum of money in said note specified. Yet the said defendants, though often requested so to do, have not yet paid the same, or hath either of them, or any part thereof, to the said plaintiff; but to do this have hitherto wholly refused, and still do refuse, to the damage of the said plaintiff five hundred dollars; and therefore he brings suit.

NEALE & BRENT, *P. Q.*

Note.

Note filed with the declaration.

Alexandria, April 23d, 1839.—Six months after date we promise to pay Mr. Turner Dixon, or order, sixteen hundred dollars for value received.

$1,600. DEAN, HARMON & MILLER.

Com. order.

And the said defendants having been arrested, and not appearing, on the plaintiff's motion, it is ordered, that judgment be entered for him against the said defendants, for the debt in the declaration mentioned, interest and costs, unless the said defendants shall appear and plead to issue at the next rules.

And at the rules held in the clerk's office of the said court for the month of September, 1843, came the plaintiff, by his said attorneys, and on his motion, the defendants still failing to appear, the last order made in this case is confirmed.

Office judgment confirmed.

And now here, at this day, to wit, at a court continued and held for the district and county aforesaid, the 4th day of December, 1843, came the plaintiff, by his said attorneys, and on his motion, the judgment obtained in the office against the said defendants (they, the said defendants, still failing to appear and plead to issue) is confirmed. And it is considered by the court, that the plaintiff recover of the defendants the debt in the declaration mentioned, with interest from the 23d day of October, 1839, till paid, and also his costs by him about his suit in this behalf expended. And the said defendants in mercy, &c.—Plaintiff's costs $9 75.

Execution.

Execution on the above judgment.

District of Columbia, to wit:

The United States of America to the marshal of the District of Columbia, greeting:

We command you, that of the goods and chattels, lands and tenements, of William Dean, Aaron D. Harmon and Joseph H. Miller, lately trading under the firm of Dean, Harmon & Miller, late in your said district, you cause to be made sixteen hundred dollars, with interest from the 23d day of October, 1839, till paid, which Turner Dixon, late in our circuit court for the District of Columbia, for the county of Alexandria, recovered against them for debt. Also nine dollars and seventy-five cents, which to the said Turner Dixon, in the said court, were adjudged for his costs by him in this behalf expended, whereof they are convict, as appears to us of record; and that you have the same before the honorable the judges of our said court, at the court-house in Alexandria, on the fourth Monday in January, 1844, to render to the

said Turner Dixon, of his debt and costs aforesaid, and have then there this writ.

Witness, the honorable William Cranch, chief judge of our said court, this 5th day of December, 1843.

CASSIUS F. LEE, *Clerk*
of the circuit court for the District of Columbia,
Alexandria county.

Cr. Forty dollars paid 23d day of October, 1839.

C. F. LEE, *C. C.*

Also $507 85, with interest from the 28th of December, 1839.

(Signed,) TURNER DIXON.

Marshal's return on the above execution.

Proceedings stayed by injunction.

D. MINOR, *D. M.*

District of Columbia, Alexandria county, to wit:

I, Cassius F. Lee, clerk of the United States circuit court of the District of Columbia, for the county of Alexandria, hereby certify, that the foregoing proceedings are a true transcript of the record of the proceedings in an action of debt, lately depending in said court, in which Turner Dixon was plaintiff, and Dean, Harmon & Miller, were defendants.

In testimony whereof, I hereto subscribe my name and affix the [L. S.] seal of the said court, this 16th day of October, 1845.

CASSIUS F. LEE, *C. C.*

District of Columbia, to wit:

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, the 3d day of June, 1844.

JOSEPH H. MILLER, complainant,
vs.
TURNER DIXON, defendant. } Injunction.

Be it remembered, that heretofore, to wit, on the 15th day of December, 1843, came the complainant, by Charles H. Lee, esq'r, his solicitor, and filed, in the clerk's office of the said court, a certain bill, which with the endorsements thereon is as follows:

Bill.

To the honorable the judges of the United States circuit court of the District of Columbia, sitting in chancery at Alexandria.

Humbly complaining, sheweth unto your honors, your orator Joseph H. Miller, that on the 27th day of April, in the year 1843, one Turner Dixon, whom your orator prays may be made a defendant hereto, issued from the clerk's office of this honorable court, holden for the town and county of Alexandria, a writ of capias ad respondendum, directed to the marshal of the District of Columbia, whereby the said marshal was

commanded to have the bodies of William Dean, Aaron D. Harmon, and your orator, before your honors, at the court-house in the town of Alexandria, at the next court, to answer the said Dixon of a plea of debt for $1600. That on the 11th day of May, in the same year, the said writ was executed on your orator by Edward Burchell, deputy for Alexander Hunter, marshal of the District of Columbia, who is prayed to be made a defendant hereto.

Your orator avers, that at the time the said writ of capias ad respondendum was executed on him, the said circuit court was holding its regular session for the May term, 1843, thereof, for this county; and that the natural and obvious understanding of the said writ, when read to your orator, was, that he should appear and answer the plea of the said Dixon, at the October term following of the said court—that being the "next court" after the service of the writ on your orator.

Your orator further shews to the court, that notwithstanding the return of the marshal on the said writ shewed that the same was not executed until after the return day for the same had passed, (all such writs being by law returnable to the first day of the court,) the said Turner Dixon proceeded, in derogation of the rights of your orator and his co-partners, and contrary to the rules of the practice of this honorable court, to file in the office of the same his declaration against your orator and his said co-partners. That on the filing of the said declaration a common order was entered in favor of the said Dixon, and the said common order afterwards, to wit, in the following month of September, was confirmed in the office of the said court; and the judgment thus obtained in the said office, without the knowledge of your orator, was, at the following October term of the said court, made absolute for want of a plea.

Your orator does, therefore, aver, that he has been taken by surprise; that the said judgment has been irregularly obtained against him, and that had the regular and legal course been pursued, he would have had ample time yet to appear and put in his plea to the said action. But now so it is, may it please the court, the said Turner Dixon having pursued his remedy irregularly, the time at which your orator was thereby required to avail himself of a defence at law, has now elapsed; and the said Dixon having obtained, on the aforesaid irregular judgment, the usual execution of fieri facias, threatens to cause the same to be levied of the goods and chattels of your orator. That the sum of $500 has been paid on account of said debt, yet the said Dixon has proceeded to obtain judgment for the full amount of $1,600, and has allowed no credit for the amount paid to him.

Your orator further represents, that the debt claimed by the said Dixon, in the aforesaid action, is on a note dated on the 23d day of April, in the year 1839, given by the firm of Dean, Harmon & Miller (to secure a debt due from the said Dean, not from your orator) to the said Dixon for $1,600, and payable at six months from date. But your orator is advised, that he is, individually, in no shape or form responsible for the said note, or any part of it, because, long after the note became

due and payable, and on the sixth day of June, in the year 1842, your orator filed his petition in the circuit court of the District of Columbia, sitting as a court of Bankruptcy for the county of Alexandria, praying to be admitted to the benefit of the act of Congress of the 19th August, 1841, entitled "An act to establish a uniform system of bankruptcy throughout the United States," and, in pursuance of the provisions of the said act, was, on the 4th day of July, 1842, regularly declared to be a bankrupt within its meaning. That on the 13th day of October, 1842, your orator obtained from the said court a decree for his "discharge from all his debts, contracts, and other engagements provable under the said act," and on the 19th of October, in the same year, the said discharge was made complete and absolute. Your orator hereto annexes a regularly authenticated copy of the certificate of his said discharge, as a part of this his bill; and the same would have been pleaded as a complete bar to the said action at law, had not your orator been prevented from so doing from surprise, growing out of the precipitant measures adopted by the plaintiff in said action. This your orator would have done to prevent any possible liability that might have been fixed upon him through its omission; but he is advised that such a plea was unnecessary, and that the debt aforesaid, being provable under the aforesaid act, and the said Dixon having had the usual notice of the application of your orator for the benefit of the said act, and having failed to resist your orator's application, and the discharge of your orator having been regularly obtained, the said writ of capias ad respondendum ought regularly, and as a matter of course, to have been abated as to your orator; and that the cause was illegally and improperly matured to judgment against him. All of which actings and doings of the said Turner Dixon are contrary to equity and justice, and manifestly tend to the wrong and oppression of your orator. In tender consideration of which, and forasmuch as your orator has no remedy at common law in the premises, and can only find relief by the interposition of a court of equity. To the end, therefore, that the said Turner Dixon may full, true, and perfect answer make to the allegations in this bill contained, as fully as if they were each of them here separately repeated, and he thereunto specially interrogated. And that the said Turner Dixon, his agents and attorneys, and the said marshal of the District of Columbia, and all others acting in his stead, may be perpetually enjoined and restrained from further proceedings under the aforesaid execution, so far as the rights and interests of your orator will be thereby effected; or, to that extent, from attempting in any manner to enforce the aforesaid judgment at law against him; and that your honors may make such further decree in the premises as to them shall seem meet and right, may it please the court to grant to your orator the United States most gracious writ of injunction and subpœna in chancery, to the said defendants directed, commanding them, &c.

C. H. LEE, *Sol. for complainant.*

District of Columbia, county of Alexandria, to wit:

This day Joseph H. Miller personally appeared before the subscriber, a justice of the peace for the county and District aforesaid, and in due form of law, solemnly affirmed, that of the matters and things set forth in his preceding bill of injunction, such as are stated as of his own knowledge are true, and all others he believes to be true.

Given under my hand, this 12th day of December, 1843.

JOHN GRUBB.

United States of America,

District of Columbia, county of Alexandria, to wit:

Circuit court of the United States for the District of Columbia, sitting in bankruptcy in and for the county of Alexandria.

In the matter of Joseph H. Miller, a bankrupt:—

Whereas, it appears to the satisfaction of this court, that Joseph H. Miller, of the county of Alexandria, a bankrupt, has, bona fide, surrendered all his property, and rights of property, for the benefit of his creditors, with the exception of certain articles which he has been permitted to retain under the third section of the act of Congress of the 19th of August, 1841, entitled "An act to establish a uniform system of bankruptcy throughout the United States;" and whereas, the said Joseph H. Miller hath fully complied with and obeyed all the orders and directions which have, from time to time, been passed by this court, and has otherwise conformed to all the other requisitions of the said act, it is, this 19th day of October, 1842, ordered and decreed by the court, that the said Joseph H. Miller is entitled to a full discharge from all his debts, contracts, and other engagements, provable under the said act, and the same is hereby decreed and allowed; and it is further ordered, that a certificate thereof be, and the same is hereby, granted to him.

In witness whereof, I, Cassius F. Lee, clerk of the said court, sitting in bankruptcy in the county of Alexandria, have here-
[L. S.] unto set my hand and the seal of the said court, this 19th day of October, 1842.

CASSIUS F. LEE, *C. C.*

A copy.—Teste:

CASSIUS F. LEE, *C. C.*

District of Columbia, to wit:

I, William Cranch, chief judge of the United States circuit court of the District of Columbia, hereby certify, that the foregoing attestation of Cassius F. Lee, clerk of said court, for the county of Alexandria, is in due form.

Given under my hand, this day of 184 .

Petition for the benefit of the bankrupt law 6th June, 1842.

Declared a bankrupt 4th July, 1842.

Decree for discharge 13th October, 1842.

Decree for discharge made final 19th October, 1842.

Upon filing this bill and the complainant's injunction bond in the usual form, with good security, to be approved by the clerk, let the injunction issue as prayed, until the further order of the court.

W. CRANCH.

December 14th, 1843.

Bill filed, bond given, and spa. issued 15th December, 1843.

District of Columbia, to wit:

The United States of America, to the marshal of the District of Columbia, greeting:

You are hereby commanded to summon Turner Dixon to appear before the honorable judges of the circuit court of the District of Columbia for the county of Alexandria, at the court-house of the said county, in the town of Alexandria, at the next court, to answer a bill in chancery exhibited against him by Joseph H. Miller; and this he shall in no wise omit under the penalty of $333 33, and have then there this writ.

Witness the honorable William Cranch, chief judge of our said court, this 15th day of December, 1843.

CASSIUS F. LEE, *C. C.*

Endorsement.

To injoin the defendant, Turner Dixon, and the marshal of the District of Columbia from further proceedings on a judgment at law against said Miller, obtained by said Dixon against the late firm of Dean, Harmon & Miller, for the sum of $1,600, with interest, from the 23d October, 1839, till paid, and costs, until the further order of the court.

Teste: C. F. LEE, *C. C.*

Marshal's return.

"Executed. D. MINOR, *D. M.*"

And at the rules held in the clerk's office of said court for the month of April, until which time this cause had been regularly continued, came the defendant, by Henry W. Davis, esq., his solicitor, and filed his answer to the complainant's bill; which answer, with the exhibits therein referred to, are as follows:

The separate answer of Turner Dixon to the bill of complaint exhibited against him and others by Joseph H. Miller, on the chancery side of the circuit court of the United States of the District of Columbia for the county of Alexandria.

Answer.

This respondent, saving and reserving to himself all exceptions to the said bill, for answer thereto, or to so much thereof as he is advised it is material for him to answer unto, he answers and says: that true it is, that on the 27th of April, 1843, he issued from the clerk's office of the circuit court of the district and for the county aforesaid, a writ of capias ad respondendum, directing the marshal of the said district to have the

bodies of William Dean, Aaron D. Harmon, and Joseph H. Miller, the complainant, (lately co-partners in trade, and known as the firm of Dean, Harmon & Miller,) before the honorable judges of the aforesaid court, at the next court, to answer this respondent a plea of debt for $1,600; that the said writ was executed on the 11th of May following, during the session of the said court for the May term 1843; that the said writ having been issued and bearing date antecedently to the session of the said court, the clear and obvious import of the language of the same was, that the said defendants should appear at the next court after its date, to wit, the said court at the May term for 1843. This respondent is advised that the service of the said writ has been legal. That having been made returnable to the next court generally, the return day thereof was the last day of the term of the said court, and that the marshal has power to execute the same at any time before the return day thereof. This respondent is moreover advised that it has been the constant and uniform practice of the marshals of the said court, since its organization, to execute such process during the session of the court; and that if the complainant has mistaken the mandate of the said writ, it has resulted from his own negligence and want of care, and against which he cannot ask for relief. This respondent is farther advised, that if the service of the said writ has been illegal, and the cause thereof appearing by the marshal's endorsement thereon, the said complainant had a full and ample remedy, by prosecuting a writ of error from the said court to the Supreme Court of the United States; and that this court has no jurisdiction thereof. This respondent farther answers, that the said complainant, together with the other defendants, failing to appear, in obedience to the mandate of the said writ, a conditional judgment was obtained and confirmed, according to law, in the clerk's office of this court, against them; and the judgment not having been set aside at the October term of the said court, by the said defendants, and this respondent being entitled to a final judgment, it was therefore adjudged that this respondent should recover of the said defendants his debt aforesaid. That upon this judgment, thus regularly obtained, this respondent sued out of the clerk's office aforesaid the usual writ of fieri facias, giving, however, the said defendants credit for the sum claimed by the complainant, which will appear endorsed on the execution aforesaid, an attested copy whereof is herewith exhibited, marked B. The complainant farther states, that the note upon which the aforesaid judgment was obtained, although executed in the name of the firm of Dean, Harmon & Miller, was in fact executed by the said Dean, in order to secure a debt due from him to this respondent. This respondent denies this statement, and on the contrary avers, that the same was executed in order to secure to him the payment of money borrowed of him, by the said Dean, for the uses and purposes of the said firm, as he believed, and that he would not have loaned the said sum had he not believed that it was borrowed for the benefit of the firm, and the faith and credit of the firm were pledged for its repayment. But were the complainant's statement true, this respondent is advised that it is now

too late for the complainant to derive any advantage from the same, being a mere legal defence, available in a court of law. Be this, however, as it may, this respondent is also advised that the complainant would have been precluded from such a defence even in a court of law, inasmuch as the complainant had recognised this respondent as his creditor by the payment of the sum for which he claims a credit in his bill, thus confirming, by his own statement, what he attempts to excuse; as he has still farther recognised this respondent as his creditor, in his schedule (a true copy of which is hereto annexed) exhibit A, filed with his petition, praying for the benefit of the late bankrupt act of the Congress of the United States; and still farther, in the articles of dissolution of the said firm, wherein he, the said complainant, and Aaron D. Harmon, for a full and valuable consideration, assumed the entire payment of the said debt to this respondent, and covenanted to protect and save harmless the said Dean from any liability or loss which he had incurred or might sustain by reason of the said debt due to this respondent from the said firm. The complainant farther states that he had been, subsequently to the origin of the respondent's claim, and prior to the institution of the aforesaid suit, duly discharged under an act of Congress, approved August 19th, 1841, entitled "An act to establish a uniform system of bankruptcy throughout the United States," and had received his certificate thereof, and that having given this respondent due notice of his application for a discharge under the said act, he is forever barred of all right of action against him for the said debt. This respondent is advised that his right of action against the said complainant was not barred or "abated" by his said discharge; that he had full right to prosecute the same subject, however to be defeated by the production of the complainant's certificate, and his reliance thereon, as a plea in bar of the said action, being the only method pointed out by the said act to render the certificate available; and that the said complainant failing to rely upon the same as a plea in bar, that the judgment aforesaid is final and conclusive; that the said certificate being a full and complete defence, when relied upon in a court of law, this court has no jurisdiction, as the inattention of parties cannot be made a subject of equitable interference; for this would give the complainant an undue advantage over this respondent, by permitting him to render available a legal defence in courts of separate and independent jurisdictions. But this respondent is advised that the said certificate could not have been made a valid and legal bar to this respondent's action at law, the said complainant having received his discharge and certificate upon his own application, under the 1st clause of the 1st section of the aforesaid act, generally known as the voluntary clause. This respondent is advised the Congress of the United States, under the powers granted by the Constitution, have no power or authority to establish what in the aforesaid act is termed voluntary bankruptcy; and that so much of the said act as relates to voluntary bankruptcy is against the Constitution of the United States, and void. This respondent reserves to himself the right to insist upon all other matters of defence in bar of, or to

the merits of the said bill, of which he might have availed himself by demurrer or plea in bar. And having fully answered the said bill, and denies all fraud and combination, prays that the complainant's injunction may be dissolved and bill dismissed; and that he, the respondent, may be hence dismissed, with his costs in this behalf expended, &c.

TURNER DIXON.

Alexandria county, sc:

Turner Dixon made oath before me, a justice of the peace in and for the said county, that the matters contained in the foregoing answer, so far as they are stated of his own knowledge, are true, and so far as he has heard them from others, and declares his belief of them to be true.

Given under my hand this 13th day of March, 1844.

JOHN GRUBB.

Notice to dissolve on 6th day of May term, 1844, or so soon after as counsel can be heard, accepted.

C. H. LEE, for Miller.

Exhibit B, referred to in answer.—Exhibit B.

District of Columbia, to wit:

The United States of America to the marshal of the District of Columbia, greeting:

We command you that of the goods and chattels, lands and tenements, of William Dean, Aaron D. Harmon, and Joseph H. Miller, lately trading under the firm of Dean, Harmon & Miller, late in your said district, you cause to be made sixteen hundred dollars, with interest from the 23d day of October, 1839, till paid, which Turner Dixon, late in our circuit court of the District of Columbia for the county of Alexandria, recovered against them for debt. Also, nine dollars and seventy-five cents, which to the said Turner Dixon, in the said court, were adjudged for his costs by him in this behalf expended, whereof they are convict, as appears to us of record; and that you have the same before the honorable the judges of our said court, at the court-house in Alexandria, on the fourth Monday in January, 1844, to render to the said Turner Dixon of his debt and costs aforesaid, and have then there this writ.

Witness the honorable William Cranch, chief judge of our said court, this 5th day of December, 1843.

CASSIUS F. LEE,
Clerk of the Circuit Court for the District of Columbia, Alexandria county.

Cr. forty dollars, paid 23d day of October, 1839.

C. F. LEE, *C. C.*

Also, $507 85, with interest from the 28th December, 1839.

(Signed) TURNER DIXON.

Marshal's return on the above execution.

"Proceedings stayed by injunction." D. MINOR, *D. M.*

Final decree.

And now here, at a court continued and held for the district and county aforesaid the 3d day of June, 1844, came the parties aforesaid, by their solicitors, and on hearing injunction dissolved, and the complainant's bill dismissed with costs.

Exhibit A, referred to in the answer.

(Exhibit A.)

List of creditors of Dean, Harmon and Miller, and Harmon, Miller, & Co., referred to in Joseph H. Miller's petition.

Names of creditors.	Residences.	Am't due 30th June, 1841.	Paid since that period.
George Wise -	Alexandria -	$1,000	
Samuel Miller -	Do -	1,000	
Sarah Harper -	Do -	1,500	Secured on real estate, by deed.
Lupp & Burke -	New York -	786 09	
Do -	Do -	745 36	
Do -	Do -	432 93	
Do -	Do -	271 49	
Do -	Do -	465 75	
Do -	Do -	722 75	
Do -	Do -	317 59	
Jon. Thorne -	Do -	390 17	
Do -	Do -	837 21	
R. J. Taylor -	Alexandria -	425	Holding collateral security.
John Laphen -	Do -	260	
P. J. Stephens -	Salem, Mass. -	203 40	
Do -	Do -	294 45	
George Calvert -	Virginia -	450	
Tho. H. Jones -	King Geo. C. H., Va. - -	200	
John J. Evans -	Alexandria, offsett	250	
Kinsey & Taylor -	Philadelphia, (see Drs.) -	159 50	Offset.
Benjamin Waters -	Alexandria -	260 39	
Wm. Gregory -	Do -	173 59	
Do -	Do -	175 41	
Jno. Roberts -	Do -	937 50	Secured on real estate.
Cath. Dean -	Do -	300	

SCHEDULE A—Continued.

Names of creditors.	Residences.	Am't due 30th June, 1841.	Paid since that period.
Wm. Crain & Co. -	Baltimore -	$69 79	
Do -	Do -	32 49	
Carrol & Tingey -	Do -	264 90	
B. Deford & Co. -	Do -	183 33	
Do -	Do -	183 33	
B. Deford & Co. -	Do -	196 02	
Do -	Do -	196 02	
J. Rully - -	Do -	240 36	
Daniel F. Hooe -	Alexandria -	382 20	Collateral security.
Gillman, Small & Co.	New York -	560 45	
Th. H. Jones -	King Geo. C. H.	417	
William Barrete -	Linn, Mass. -	256 59	
Isaac Chace -	Do -	145 97	
Joseph Leslie -	Loudoun co., Va.	189 14	
Do -	Do -	325 24	
Do -	Do -	325 24	
Do -	Do -	286 99	
Harper & Wright -	Alexandria -	150 90	
Do -	Do -	150	
George C. Harvey -	Do -	90	
Do -	Do -	162 20	
Do -	Do -	113 37	
Tho. Vowell -	Do -	77 45	
John Kipp -	Baltimore -	93 84	
Gillman, Small & Co.	New York -	86 66	
C. C. Smoot & Co.	Alexandria -	75	
Do -	Do -	125	
Do -	Do -	310	
Do -	Do -	520	
Aga. Meade & Son	Loudoun co., Va.	48 80	
J. W. Patton -	Philadelphia -	126 35	
Lambert & McKensie	Alexandria -	387 12	
Benjamin Waters -	Do -	230	
H. C. Smith & Co.	Do -	22 80	

The above debts due upon bond or note.

SCHEDULE A—Continued.

Debts due on open account.

Names of creditors.	Residences.	Am't due 30th June, 1841.	Paid since that period.
Wm. M. Morrison	Washington	$15	
John Kipp	Baltimore	195	
P. G. Good	Georgetown	4 05	
Massie & Wheeler	Alexandria	128 93	
Jacob Sensoney	Winchester, Va.	1 87	
Daniel Hill	Upperville, Va.	251 95	
Th. Williams	Alexandria	17 82	
Ferd. O'Neale	Do	14	
Lupp & Burke	New York	773 09	
Samuel Lunt	Alexandria	3 62	
Bell & Entwistle	Do	15	
Jon. Thorne	New York	1,794 73	
A. & S. Haskill	Massachusetts	254 03	
Oakes, Whitney & Co.	Do	82 50	
Cuthbt. Owens	Fauq. co., Va.	2 10	
Jno. F. Cookes	Jefferson co., Va.	3 18	
T. O. Flint & Co.	- - -	70	
Burr Weeks	Middleburgh, Va.	1 47	
Richard Hill	Alexandria	13 38	
Wm. H. Fitzhugh	Staff. co., Va.	8 20	
Tho. E. Baird & Co.	Alexandria	4 75	
B. S. Kinsey	Do	3 43	
Daniel Shryer	Do	443 43	
John Arnold	Do	41 25	
E. B. Philips	Massachusetts	132 89	
J. T. Turner & Co.	Salem, Va.	1 22	
Wyth & Noyes	Baltimore	28	
George Calvert	Upperville	185 20	
George P. Wise	Alexandria	8 68	
William Gregory	Do	115 88	
Joel Z. Harper	Do	238 77	
Wm. Jenkins & Son	Baltimore	1,058 67	
R. & W. Ramsay	Alexandria	9 88	
John Sinclair	P. W., Va.	10 75	
Th. Whittington	Alexandria		
Geo. McCleish	Do	10 99	
Masters & Cox	Do	142 06	
Wright & Harper	Do	215 43	

SCHEDULE A—Continued.

Names.	Residences.	Am't due 30th June, 1841.	Paid since that period.
Alexander Arnold	Alexandria	$4 31	
F. A. Koones & Co.	Do	31 17	
George C. Harvey	Do	60	
R. Crupper & Son	Do	4 65	
Jno. A. Oakes	Massachusetts	178 50	
B. Deaford & Co.	Baltimore	73 37	
F. J. Stephens	Salem, Mass.	2	
Tho. H. Jones	King Geo. C. H. Va.	74 43	
Daniel Johnson	- - -	142 64	
Otis Spear	Baltimore	21 10	
Sept. Foster	Massachusetts	361 64	
Lewis Slocum	Do	74	
Wm. Hayes & Co.	Washing'n, D. C.	18 39	
Tho. Vowell	Alexandria	8 03	
Nathan Kell	Do		
Wm. W. Harper	Do		
Pascoe & Waters	Do		
G. J. Thomas & Co.	Do	196 51	
W. T. Harper	Do	9 72	
A. S. Willis & Co.	Do	13 75	
Jas. Vansant	Do	11 62	
Henry Colson	- -	24 90	
John J. Sayers	Alexandria		
And. Barbee	Salem, Va.	335	
B. Bradford	Fauq. co., Va.		
Kerr & McLean	Alexandria	239 86	
N. Clarey	Occoquan	140	
Robt. Crupper	Alexandria	135	
B. T. Fendall	Do	600	
Robt. H. Miller	Do	9,010	
Wm. H. Miller	Do	263 11	
D. F. Hooe	Do	119 83	
Turner Dixon	Do	1,000	
Wm. Walker	Do	253 46	
S. P. L. Huntstable	Do	387 90	

(Signed.) JOSEPH H. MILLER.

DISTRICT OF COLUMBIA, ALEXANDRIA COUNTY, *to wit:*

I, Cassius F. Lee, clerk of the United States circuit court of the District of Columbia for the county of Alexandria, hereby certify that the foregoing proceedings are a true transcript of the record of the proceedings in an injunction suit lately depending in said court, in which Joseph H. Miller was complainant and Turner Dixon was defendant.

In testimony whereof, I hereto subscribe my name and affix the [L. S.] seal of the said court this 21st day of October, 1845.

CASSIUS F. LEE, *C. C.*

DISTRICT OF COLUMBIA, *to wit:*

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, the first day of June, 1844.

JOSEPH H. MILLER, plaintiff, ag't TURNER DIXON, defendant. } Motion.

Be it remembered, that on the first day of June, 1844, came the plaintiff, Joseph H. Miller, by Charles H. Lee, esq., his attorney, and produced and read to the court the following notice and affidavit:

Notice.

ALEX'A, *May* 15, 1844.

Mr. Turner Dixon,

SIR: You are hereby notified that on Saturday, the 18th day of this month (May, 1844,) I shall apply to the circuit court for the District of Columbia, sitting in the county of Alexandria, *to open a judgment* on the records of said court in your name as plaintiff, against William Dean, Aaron D. Harmon, and Joseph H. Miller, which said judgment became confirmed as an office judgment at the *last* term of said court, and is for the sum of sixteen hundred dollars, with interest thereon from the 23d of October, 1839, *to enable the subscriber to plead his certificate of bankruptcy*, dated the 19th of October, 1842, in bar to the debt on which said judgment is founded; which certificate was duly granted the said subscriber on the date last aforesaid, by the said circuit court sitting in bankruptcy in the said county of Alexandria, by virtue of an act of Congress of the 19th of August, 1841, entitled "an act to establish a uniform system of bankruptcy throughout the United States;" and in the event the said circuit court, on consideration of said motion, shall refuse to open the said judgment, and give the subscriber leave to plead his said certificate in bar to said debt, or shall deem said plea unnecessary, I shall then move the said court to quash the execution of fieri facias which has issued on said judgment.

Yours, respectfully,

JOS. H. MILLER.

I delivered a true copy of the within to Turner Dixon in person, May 16th, 1844.

E. BURCHELL, *D. M.*

ALEXANDRIA COUNTY, *to wit*:

TURNER DIXON
vs.
DEAN, HARMON and MILLER. } *Affidavit.*

Joseph H. Miller, one of the defendants in this cause, this day personally appeared before the subscriber, a justice of the peace, for the county aforesaid, and in due form of law solemnly affirmed, that the writ in the said cause was not served on him until about the middle of the session of the circuit court at its session for the May term, 1843, and that from the purport of the said writ, and the late day at which it was served on him, he was fully of the impression that the same was not returnable until the October term following of the said court, and that there was ample time between the date of the service of the writ and the October term, 1843, of the said court, in which his appearance to the said writ, and defence to the said action, could be effected; that being of this impression he failed to make any defence to the said suit, or to enter his appearance therein, as he certainly desired and intended to do at the proper time. That a judgment in the office of the court has been obtained against him in consequence of the said writ being returned six months earlier than he believed it could legally be. That he has thus been taken by surprise, and prevented thereby from availing himself of a valid and sufficient defence in law to the said action. That he has been guilty of no negligence wilfully, in failing to make this defence at an earlier period. And that his application to the court to open the aforesaid cause, and permit him to file his plea to the action, is not made to delay or hinder justice to the plaintiff. That he had, prior to the issuing the said writ against the aforesaid firm, taken the benefit of the bankrupt act, and intended to plead his certificate of bankruptcy to the said action, but was prevented by surprise and a misunderstanding of the said writ as above shown. He refers to the proceedings aforesaid in bankruptcy, and particularly to the certificate marked A, for the information of the court, as a part of the proceedings in the application he intends to make to the court to open to the said judgment, and failing therein, the further application to quash the execution issued on the said judgment. JOS. H. MILLER.

Affirmed to before me this 3d day of June, 1844.

ISAAC KELL, Sen'r, *J. P.*

Which notice and affidavit having been read and heard, the court made the following order:

Order of the court.

The defendant, Joseph H. Miller, having filed an affidavit, and produced to the court here his discharge and certificate under the bankrupt law of the 19th of August, 1841, it is thereupon, on his motion, ordered by the court this first day of June, 1844, that no execution heretofore issued, or hereafter to be issued, upon the judgment in this case rendered, shall be served or levied upon the body or property of the said Joseph H. Miller.

DISTRICT OF COLUMBIA, ALEXANDRIA COUNTY, *to wit:*

I, Cassius F. Lee, clerk of the United States circuit court of the District of Columbia for the county of Alexandria, hereby certify that the foregoing proceedings are a true transcript of the record of the proceedings in an injunction suit lately depending in said court, in which Joseph H. Miller was complainant and Turner Dixon was defendant.

In testimony whereof, I hereto subscribe my name and affix the [L. S.] seal of the said court this 21st day of October, 1845.

CASSIUS F. LEE, *C. C.*

DISTRICT OF COLUMBIA, *to wit:*

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, the first day of June, 1844.

JOSEPH H. MILLER, plaintiff, ag't TURNER DIXON, defendant. } Motion.

Be it remembered, that on the first day of June, 1844, came the plaintiff, Joseph H. Miller, by Charles H. Lee, esq., his attorney, and produced and read to the court the following notice and affidavit:

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Yours, respectfully,

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Joseph H. Miller, one of the defendants in this cause, this day personally appeared before the subscriber, a justice of the peace, for the county aforesaid, and in due form of law solemnly affirmed, that the writ in the said cause was not served on him until about the middle of the session of the circuit court at its session for the May term, 1843, and that from the purport of the said writ, and the late day at which it was served on him, he was fully of the impression that the same was not returnable until the October term following of the said court, and that there was ample time between the date of the service of the writ and the October term, 1843, of the said court, in which his appearance to the said writ, and defence to the said action, could be effected; that being of this impression he failed to make any defence to the said suit, or to enter his appearance therein, as he certainly desired and intended to do at the proper time. That a judgment in the office of the court has been obtained against him in consequence of the said writ being returned six months earlier than he believed it could legally be. That he has thus been taken by surprise, and prevented thereby from availing himself of a valid and sufficient defence in law to the said action. That he has been guilty of no negligence wilfully, in failing to make this defence at an earlier period. And that his application to the court to open the aforesaid cause, and permit him to file his plea to the action, is not made to delay or hinder justice to the plaintiff. That he had, prior to the issuing the said writ against the aforesaid firm, taken the benefit of the bankrupt act, and intended to plead his certificate of bankruptcy to the said action, but was prevented by surprise and a misunderstanding of the said writ as above shown. He refers to the proceedings aforesaid in bankruptcy, and particularly to the certificate marked A, for the information of the court, as a part of the proceedings in the application he intends to make to the court to open to the said judgment, and failing therein, the further application to quash the execution issued on the said judgment. JOS. H. MILLER.

Affirmed to before me this 3d day of June, 1844.

ISAAC KELL, Sen'r, *J. P.*

Which notice and affidavit having been read and heard, the court made the following order:

Order of the court.

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Proceedings in bankruptcy.

Proceedings in bankruptcy in the case of Joseph H. Miller, referred to in the foregoing affidavit.

To the circuit court of the United States for the District of Columbia, sitting in bankruptcy.

Joseph H. Miller, on his own part, and as a member of the firms of Dean, Harmon & Miller, and Harmon, Miller & Co., of the county of Alexandria, in the said District, hereby declares himself unable to meet his debts and engagements, and those of the said firms, no part of which has been created in consequence of defalcation by him as a public officer, or as executor, administrator, guardian, or trustee, or while acting in any fiduciary character; he therefore applies to the said court for the benefit of the act of Congress of the 19th of August, 1841, entitled "an act to establish a uniform system of bankruptcy throughout the United States;" and he sets forth schedule hereto annexed marked A, a list of his creditors, their respective places of residence, and the amount due to each. And in another schedule marked B, an accurate inventory of his property, rights, and credits, of every name, kind, and description, and the location and situation of each and every parcel thereof. He also sets forth in schedule C, hereunto annexed, a list of the creditors of Dean, Harmon & Miller, and Harmon, Miller & Co., their respective places of residence, and the amount due to each. And in schedule marked D, hereunto annexed, an accurate inventory of the property, rights, and credits, of the said firms, of every name, kind, and description, and the location and situation of each and every parcel thereof, verified by his solemn affirmation. JOS. H. MILLER.

Schedule A.

List of creditors of Joseph H. Miller, referred to in his petition for the benefit of the bankrupt act.

Names of Creditors.	Residence.	Amount due.
1. Samuel Miller*	Alexandria	$5297 50
2. Rachel Hewes*	do	1400 00
3. James Roper	Jefferson Co., Va.	425 00
4. Robert H. Miller	Alexandria	240 38
5. George J. Thomas & Co.	do	40 00
6. Benoni Wheat & Son.	do	40 00
7. Dennis Johnson	Fairfax Co., Va.	27 00
8. Wm. L. Powell	Alexandria	17 75
9. Wm. H. Miller	do	35 94
10. George S. Hough	do	4 84
11. Jno. McCormick	do	10 00

*See memorandum annexed.

JOSEPH H. MILLER.

Schedule B.

Inventory of the property of Joseph H. Miller, referred to in his petition for the benefit of the bankrupt act.

REAL ESTATE.

No. 1. A tenement and lot of ground on the east side of Washington street, between Prince and Duke streets.

No. 2. A three story brick tenement and lot of ground on the west side of Union street, between Prince and Duke streets.

No. 3. A three story brick tenement and lot of ground on the south side of Prince street, between Union and Water streets.

No. 4. An annuity or rent charge of eighty dollars per annum, on a square or two acres of ground, bounded by King and Prince, Columbus and Alfred streets, payable on the 1st day of July, annually, forever.

No. 5. An annuity or rent charge of six dollars and 66 cents, on a lot of ground on the west side of Royal, between Wolfe and Wilkes streets, payable on the 19th day of December, annually, forever.

No. 6. An annuity or rent charge of forty-nine $\frac{42}{100}$ dollars, on a lot of ground on the north side of Prince and west side of Alfred streets, at their intersection, payable on the 1st day of October, annually, forever.

No. 7. A rent charge of forty-one $\frac{58}{100}$ dollars, on a lot of ground on the west side of Alfred street, 135 feet to the north of Prince street, payable on the 8th day of May, annually, forever.

No. 8. An annuity or rent charge of twenty-three $\frac{33}{100}$ dollars, on the west side of Alfred street, 135 feet south of King street, payable on the 1st day of November, annually, forever.

No. 9. An annuity or rent charge of thirty-eight $\frac{12}{100}$ dollars, on the north side of King street, between Patrick and Henry streets, payable on the 1st day of November, annually, forever.

No. 10. A tannery and three lots of ground, partly in the county of Alexandria, and partly in the county of Fairfax, on the south side of Duke street, extended near the Stone bridge.

No. 11. Four acres of ground with the improvements, in the county of Fairfax, called Spring Garden.

No. 12. A lot of ground containing two acres, in the county of Fairfax, near Spring Garden.

No. 13. A lot of ground on the south of Duke street, between Washington and Columbus streets.

No. 14. A lot of ground and frame tenements situate at the east of the Tannery property.

Memorandum.

Nos. 1, 2, 3 and 4, in the above list, were conveyed to Robert H. Miller, in trust, by deed dated 21st June, 1841, to secure the payment of $4463, with interest from the 12th December, 1834, and the further sum of $834 55, with interest from 13th May, 1837, both due by the bonds of Joseph Miller to Samuel Miller.

Nos. 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14, were conveyed to Robert H. Miller, in trust, by deed dated 5th July, 1841, for the purposes therein mentioned, being to provide for the payment of the debts due by Dean, Harmon and Miller, and Harmon, Miller and Co.

Schedule B, continued.

PERSONAL ESTATE.

Rent of the Tannery near Stone bridge, from Ch. C. Smoot & Co., from 1st March, 1842, payable semi-annually, at $350 per annum.

Rent of a one story brick house on the Tannery property, payable quarterly from 15th March, 1842, at $60 per annum, by Henry Jefferson.

Rent of Slaughterhouse on the Tannery property, payable monthly, from the day of at $2 50 per month, by John Brown.

Rent of vacant lot east of and adjoining Tannery property, payable annually from 16th July, 1841, at $16 per annum.

Rent of two tenements on the lot east of and adjoining Tannery property, one at $2 50 per month, from day of by and one at $2 per month, from day of by

Rent of a two story brick tenement on the east side of Washington street, between Prince and Duke streets, at $250 per annum, payable quarterly, at $250 per annum, W. Jamieson.

Rent of a three story brick tenement on the south side of Prince, between Union and Water streets, and of a three story brick tenement on the west side of Union, between Prince and Duke streets, at $150 per annum for the two, payable quarterly, from the 1st March, 1842, by George H. Markell.

Rent of one story brick tenement on Spring Garden lot, payable quarterly from 1st March, 1842, at $40 per annum, by Tho. Devaughn.

Rent accruing from annuity No. 4, $80 per annum, payable 1st July, by F. Peyton's estate.

Rent accruing from annuity No. 5, $6 66 per annum, payable 19th December, by E. Burchell.

Rent accruing from annuity part of No. 7, $21 58 per annum, payable 1st of May, by W. Jones.

Rent accruing from annuity No. 7, $20 per annum, payable 1st of May, by J. Bontz.

Rent accruing from annuity No. 8, $23 33 per annum, payable 1st December, by E. Lunt.

Rent accruing from annuity No. 9, $38 12 per annum, payable 1st November, by S. B. Larmour.

Rent of a two story frame tenement and lot, corner of Prince and Alfred streets, (being No. 6 in list of annuities) at $100 per annum, payable quarterly from 17th February, 1842, by Mrs. Laphen.

George H. Markell's note, dated Feb'y 25th, 1842, at 60 days date, for $125.

George H. Markell's note, dated Feb'y, 25th, 1842, at 90 days date, for $125.

Two shares of Great Hunting Creek Bridge Co's stock.

One share of Ashby's Gap Turnpike Road Co's stock.

One share of Fauquier and Alexandria Turnpike Road Co's stock.

One share of Bank of Alexandria stock.

One-fifth part of the reversion of 20 shares of Bank of Potomac, upon the demise of Rachel Hewes.

One undivided fifth part of the reversion of a two story brick tenement and lot of ground on the south side of Wolfe, between Royal and Fairfax streets, upon the demise of Rachel Hewes.

One undivided fifth part of the residue of the estate of Mordecai Miller, deceased, should there be any such residue.

The residue of John J. Proctor's three bonds for $500 each, dated 22d June, 1841, payable one, two, and three years after date, respectively, with interest, transferred to Rachel Hewes to secure the payment of $1,400, with interest from the 16th day of January, 1841.

A note of Angus M. Reagan, dated Dec'r 9th, 1837, payable four months after date for $160, with a credit of $33 74 *dollars*, in the hands of Nicholas Cleary for collection.

JOS. H. MILLER.

District of Columbia, county of Alexandria, to wit:

On this 4th day of June, 1842, before me, the subscriber, commissioner in bankruptcy for the county aforesaid, personally appeared the within named Joseph H. Miller, who subscribed the annexed petition and schedule in my presence, and made his solemn affirmation, that to the best of his knowledge and belief, the several matters and things stated in his said petition and schedules are true.

Given under my hand, at Alexandria, the day and year aforesaid.

CHARLES H. LEE, *Commissioner*.

(Schedule C.)

List of creditors of Dean, Harmon and Miller, and Harmon, Miller & Co., referred to in Joseph H. Miller's petition for the benefit of the bankrupt law.

Names of creditors.	Residence.	Am't due 30th June, 1841.	Paid since that time.
George Wise -	Alexandria -	$1,000	
Samuel Miller -	Do -	1,000	
Sarah Harper -	Do -	1,500	Secured on real estate, by deed.
Leupp & Burke -	New York -	786 09	
Do -	Do -	745 36	
Do -	Do -	432 93	
Do -	Do -	271 49	
Do -	Do -	465 75	
Do -	Do -	722 75	
Do -	Do -	317 59	
Jonathan Thorne -	Do -	390 17	
Do -	Do -	837 21	
Robert J. Taylor -	Alexandria -	425	Holding collateral securities.
John Laphen -	Do -	260	
P. J. Stephens -	Salem, Mass. -	203 40	
Do -	Do -	297 75	
George Calvert -	Virginia -	450	
Thos. H. Jones -	King Geo. C. H., Va. - -	200	
John T. Evans -	Alexandria, offsett	250	see Drs.
Kinsey & Taylor -	Philadelphia, (see Drs.) -	159 50	Offset.
Benjamin Waters -	Alexandria -	260 39	
Wm. Gregory -	Do -	173 59	
Do -	Do -	175 41	
John Roberts -	Do -	937 50	Secured on real estate by deed.
Cath. Dean -	Do -	300	
Wm. Crain & Co. -	Baltimore -	69 79	
Do -	Do -	32 49	
M. Carrol & Tinges	Do -	264 90	
B. Deford & Co. -	Do -	183 33	
Do -	Do -	183 33	
Do -	Do -	196 02	
Do -	Do -	196 02	

SCHEDULE C—Continued.

Names of creditors.	Residence.	Am't due 30th June, 1841.	Paid since that time.
J. Reilly - -	Baltimore -	$240 36	
Daniel F. Hooe -	Alexandria -	382 20	Collateral security.
Gillman, Small & Co.	New York -	560 45	
Tho. H. Jones -	Kg. Geo. C.H. Va.	417	
William Bassett -	Linn, Mass. -	256 59	
Isaiah Charl -	Do -	145 97	
Joseph Leslie -	Loudoun co., Va.	189 14	
Do -	Do -	325 24	
Do -	Do -	325 24	
Do -	Do -	286 99	
Harper & Wright -	Alexandria -	150 90	
Do -	Do -	150	
George C. Harvey -	Do -	90	
Do -	Do -	162 20	
Do -	Do -	113 37	
Thomas Vowell -	Do -	77 45	
John Kipp -	Baltimore -	93 84	
Gillman, Small & Co.	New York -	86 66	
C. C. Smoot & Co.	Alexandria -	75	
Do -	Do -	125 22	
Do -	Do -	310	
Do -	Do -	520	
Aquila Meade & Son	Loudoun co., Va.	48 80	
J. W. Patton -	Philadelphia -	126 35	
Lambert & McKensie	Alexandria -	387 12	
Benjamin Waters -	Do -	230	
H. C. Smith & Co.	Do -	22 80	

The above debts due upon bond or note.

SCHEDULE C—Continued.

Debts due upon open account.

Names of creditors.	Residence.	Am't due 30th June, 1841.	Paid since that period.
Wm. M. Morrison -	Washington, D. C.	$15	
John Kipp -	Baltimore -	195 50	
T. G. Good -	Georgetown, D. C.	4 05	
Massie & Wheeler -	Alexandria -	128 93	
Jacob Sensney -	Winchester, Va.	1 87	
Daniel Hill -	Upperville, Va. -	251 95	
Thos. Williams -	Alexandria -	17 82	
Ferd. O'Neale -	Do -	14	
Leupp & Burke -	New York -	773 09	
Samuel Lunt -	Alexandria -	3 62	
Bell & Entwistle -	Do about	15	
Jon. Thorne -	New York -	1,794 73	
A. & S. Haskill -	Massachusetts -	254 03	
Oakes, Whitney & Co.	Do -	82 50	
Cuth. Owens -	Fauq. co., Va. -	2 10	
Jno. T. Cookee -	Jefferson co., Va.	3 18	
T. O. Flint & Co. -	- - -	70	
Burr Weeks -	Middleburgh, Va.	1 47	
Richard Hill -	Alexandria -	13 38	
Wm. H. Fitzhugh -	Staff. co., Va. -	8 20	
Tho. E. Baird & Co.	Alexandria -	4 75	
Benj. S. Kinsey -	Do -	3 65	
Daniel Shryer -	Do -	443 43	
John Arnold -	Do -	41 25	
E. B. Philips -	Massachusetts -	132 89	
J. T. Turner & Co.	Salem, Va. -	1 22	
Wyeth & Norriss -	Baltimore -	28	
George Calvert -	Upperville, Va. -	185 20	
George P. Wise -	Alexandria -	8 68	
William Gregory -	Do -	115 88	
Joel Z. Harper -	Do -	238 77	
Wm. Jenkins & Son	Baltimore -	1,058 67	
R. & W. Ramsay -	Alexandria -	9 88	
John Sinclair -	Prince Wm., Va.	10 75	
Tho. Whittington -	Alexandria -		
Geo. McClish -	Do -	10 99	
Masters & Cox -	Do -	142 06	
Wright & Harper -	Do -	215 43	

SCHEDULE C—Continued.

Names.	Residence.	Am't due 30th June, 1841.	Paid since that time.
Alexander Arnold -	Alexandria -	$4 31	
F. A. Koones & Co.	Do -	31 17	
George C. Harvey -	Do about -	60	
R. Crupper & Son -	Do -	4 65	
Jno. A. Oakes -	Massachusetts -	178 50	
B. Deford & Co. -	Baltimore -	73 37	
T. J. Stephens -	Salem, Mass. -	2	
Tho. H. Jones -	King Geo. C. H. Va. - -	74 43	
Daniel Johnson -	- -	142 64	
Otis Spear -	Baltimore -	21 10	
Step. Foster -	Massachusetts -	361 64	
Lewis Slocum -	Do -	74	
Wm. Noyes & Co. -	Washing'n, D. C.	18 39	
Tho. Vowell -	Alexandria -	8 03	
Nathan Kell -	Do -		
Wm. W. Harper -	Do -		
Pascoe & Waters -	Do -		
G. J. Thomas & Co.	Do -	196 51	
W. T. Harper -	Do -	9 72	
A. S. Willis & Co. -	Do -	13 75	
Jas. Vansant -	Do -	11 62	
Henry Colson -	- - -	24 90	
John J. Sayers -	Alexandria -		
Andrew Barbee -	Salem, Va. -	335	
Benj. K. Bradford -	Fauq. co., Va. -		
Kerr & McLean -	Alexandria -	239 86	
Nich. Cleary -	Occoquan, Va. -	140	
Robt. Crupper -	Alexandria -	135	
B. T. Fendall -	Do -	600	
Robt. H. Miller -	Do -	9,010	
Wm. H. Miller -	Do -	263 11	
Dan'l F. Hooe -	Do -	119 83	
Turner Dixon -	Do -	1,000	
Wm. Walker -	Do -	253 46	
S. P. L. Huntstable	Do -	387 90	

(Signed.) JOSEPH H. MILLER.

By the circuit court of the District of Columbia, sitting in bankruptcy in and for the county of Alexandria, the 7th day of June, 1842.

Upon the petition of Joseph H. Miller on his own account, and as a member of the firms of Dean, Harmon & Miller, and Harmon, Miller & Co., for the benefit of the bankrupt act, it is ordered, that notice of the said petition be published three times in the Alexandria Gazette, and that the first publication thereof be at least twenty days before the fourth day of July, 1842, which is assigned for the hearing thereof, at 10 o'clock A. M.

At another day, to wit, at a circuit court of the District of Columbia, sitting in bankruptcy in and for the county of Alexandria, the 6th day of July, 1842;

Due notice having been given by advertisement in the Alexandria Gazette to all persons interested to appear before the circuit court of the District of Columbia, at their court room in Alexandria county, on the fourth day of July, to shew cause why the prayer of Joseph H. Miller, for the benefit of the bankrupt law, should not be granted; and no cause having been shown, and it appearing to the satisfaction of the court that the facts stated in the petition and schedule of the said Joseph H. Miller are true, it is by the court, this 6th day of July, ordered and decreed, that the said Joseph H. Miller is a bankrupt within the perview of the act of Congress of the 19th of August, 1841, entitled "An act to establish a uniform system of bankruptcy throughout the United States," this decree to be final, unless cause be shewn to the contrary within six days from this day.

And at another day, to wit, at a circuit court of the District of Columbia, sitting in bankruptcy in and for the county of Alexandria, the 12th day of July, 1842;

No cause having been shewn, or allegations filed, why the order, made on the 6th day of this month, declaring Joseph H. Miller a bankrupt, should not be confirmed, the same is now made final and absolute; and on the petition of the said Joseph H. Miller, a bankrupt, praying for a discharge and certificate, it is this 12th day of July, 1842, ordered by the court, that notice thereof be published three times in the Alexandria Gazette, and that the first publication thereof be at least seventy days before the 13th day of October next, which day is hereby assigned for the hearing thereof, at 10 o'clock A. M., before the circuit court of the United States for the District of Columbia, sitting in bankruptcy, at their court room in the county of Alexandria.

At another day, to wit, at a circuit court of the District of Columbia, sitting in bankruptcy in and for the county of Alexandria, the 13th day of October, 1842;

Whereas it appears to the satisfaction of the court that Joseph H. Miller, on his own account, and as a member of the firms of Dean, Harmon & Miller and Harmon, Miller & Co., has bona fide surrendered all his property and rights of property for the benefit of his creditors, with the exception of certain articles, which he has been permitted to retain under the third section of the act of Congress of the 19th of

August, 1841, entitled "An act to establish a uniform system of bankruptcy throughout the United States:" And whereas the said Joseph H. Miller has fully complied with and obeyed all the orders and directions which have been, from time to time, passed by this court, and has otherwise conformed to all the requisitions of the said act, it is, this 13th day of October, 1842, ordered and decreed by the court, that the said Joseph H. Miller is entitled to a full discharge from all his debts, contracts, and other engagements, provable under the said act, and the same is hereby decreed and allowed. And it is further ordered that a certificate thereof be, and the same is hereby, granted to him. This decree to be final, unless cause be shewn to the contrary within six days.

And at another day, to wit, at a circuit court of the District of Columbia, sitting in bankruptcy, in and for the county of Alexandria, the 19th day of October, 1842;

No allegations having been filed, or cause shewn, why the order made the 13th of this month, granting to Joseph H. Miller a discharge and a certificate thereof, should not be confirmed, the same is now made final and absolute.

DISTRICT OF COLUMBIA, *Alexandria county, to wit:*

I, Cassius F. Lee, clerk of the United States circuit court of the District of Columbia for the county of Alexandria, hereby certify that the foregoing is a true transcript of the record of the proceedings in a suit lately depending in said court, wherein Joseph H. Miller was plaintiff and Turner Dixon was defendant.

In testimony whereof I hereto subscribe my name, and affix the seal of the said court this 22d day of October, 1845.

[L. S.] CASSIUS F. LEE, *C. C.*

Filed December 1, 1845.